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TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS WORKFORCE COMMISSION
AUSTIN, TEXAS

PUBLIC MEETING)
FOR THE TEXAS)
WORKFORCE COMMISSION)

COMMISSION MEETING
WEDNESDAY, JANUARY 23, 2019

BE IT REMEMBERED THAT at 9:00 a.m. on
Wednesday, the 23rd day of January, 2019, the above-entitled
matter came on for hearing at the Texas Workforce
Commission, TWC Building, 101 East 15th Street, Room 244,
Austin, Texas, before RUTH R. HUGHS, Chair; JULIAN ALVAREZ
and ROBERT D. THOMAS, Commissioners.

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PROCEEDINGS, WEDNESDAY, JANUARY 23, 2019

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P R O C E E D I N G S

WEDNESDAY, JANUARY 23, 2019

(9:00 a.m.)

AGENDA ITEM NO. 1

CHAIR HUGHS: Good morning. This meeting is called to order.

AGENDA ITEM NO. 2

CHAIR HUGHS: Mr. Trobman, has anyone signed up for public comment?

MR. TROBMAN: No.

CHAIR HUGHS: All right. Thank you. I now turn the meeting over to Commissioner Thomas to preside over Agenda items 3 through 7.

AGENDA ITEM NO. 3

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

No Discussion.

AGENDA ITEM NO. 4

Discussion, Consideration and Possible Action Regarding Tax Liability Cases Listed on the Texas Workforce Commission Docket 4.

1 The Commission considered and took action on
2 all tax liability cases listed on Docket 4.

3 AGENDA ITEM NO. 5

4 Discussion, Consideration and Possible Action
5 Regarding Fair Housing Cases listed on the Texas Workforce
6 Commission Docket 4.

7 No Discussion.

8 AGENDA ITEM NO. 6

9 Discussion, Consideration and Possible Action
10 Regarding Higher Level Appeals in Wage Claim Cases Listed on
11 the Texas Workforce Commission Docket 4.

12 The Commission considered and took action on
13 all wage claim cases listed on Docket 4.

14 AGENDA ITEM NO. 7

15 Discussion, Consideration and Possible Action
16 Regarding Higher Level Appeals in Unemployment Compensation
17 Cases Listed on the Texas Workforce Commission Docket 4

18 The Commission considered and took action on
19 all unemployment compensation cases listed on Docket 4.

20 AGENDA ITEM NO. 8

21 CHAIR HUGHS: We are now back in session.

22 Item 8, Discussion, Consideration and Possible Action
23 Regarding the Acceptance of Pledges for Board Contract Year
24 2019 Child Care Matching Funds.

25 MS. ARBOUR: Good morning Chair Hughs,

1 Commissioners, Mr. Serna. Courtney Arbour, Workforce
2 Development Division.

3 Annually local workforce development boards
4 submit local match pledges to secure federal child care
5 funds pursuant to Commission Rule 800.73. Today staff
6 requests Commission acceptance of child care pledges for
7 donations, transfers, and certifications of expense in the
8 amount of \$3,203,973.

9 CHAIR HUGHS: Thank you. Any comments or
10 questions? Okay. Do we have a motion?

11 COMM. ALVAREZ: How much was the amount?

12 MS. ARBOUR: 3,203,973.

13 COMM. ALVAREZ: For some reason I have the
14 wrong amount. I'm giving you way more than that.

15 MS. ARBOUR: Let me -- let me check real
16 quick. For today the new amount is the 3,203,973.

17 COMM. ALVAREZ: Okay. Okay.

18 COMM. THOMAS: Where is the -- where is the
19 discrepancy right now?

20 CHAIR HUGHS: So I think the second page
21 you'll see the -- that's the remainder versus the total.

22 MS. ARBOUR: Yes. These are the -- let me
23 take a quick look.

24 CHAIR HUGHS: You can just walk us through
25 the document in the file and we can just make sure we're all

1 on the same page. Thank you.

2 COMM. THOMAS: Are we referring to the second
3 page line total at the bottom, Courtney? Yeah, that's --

4 MS. ARBOUR: I was referring to notes
5 provided to me by staff who are in training today, so I'm
6 sorry. I'm getting my bearings on the document. Yes. Here
7 I see the 3,816,259.

8 CHAIR HUGHS: Can we come back to this item?

9 MS. ARBOUR: Yes. Let's do that.

10 CHAIR HUGHS: Okay. Thank you.

11 AGENDA ITEM NO. 9

12 CHAIR HUGHS: All right. I believe there's
13 an update on Item 9, Discussion, Consideration and Possible
14 Action Regarding the Texas Workforce Commission
15 Appropriations Requests (Including Exceptional Items and
16 Riders) for the Fiscal Years 2020 and 20201 Biennium.

17 MR. TOWNSEND: Good morning. Good morning
18 Chair Hughs, commissioners. For the record, Randy Townsend,
19 Chief Financial Officer.

20 A couple weeks ago I presented to you the
21 very quick status where I thought we were with regard to our
22 appropriation request in relation to the introduced House
23 bill at the time. And since then, of course, we have the
24 introduced Senate bill as well.

25 The good news, I guess, in terms of the

1 comparison between those two introduced bills is they're
2 exactly the same for the -- for the Texas Workforce
3 Commission. So that makes part of this a little bit easier
4 to keep up with the different numbers.

5 At the time in comparing to the introduced
6 bill for child care I had indicated that we had had a
7 reduction made in our appropriation request for 2020 and
8 '21. The reduction was a result of the -- in terms of the
9 introduced bill -- a funding Department of Family Protective
10 Service Care for 27-million increase in 2021, and 29-million
11 increase in -- I'm sorry. 2020 was a 27-million reduction,
12 2021 was a 29-million reduction to our child care and then a
13 corresponding increase to the child care for DFPS children.

14 Furthermore, there was a reduction, a 35-
15 million on top of that 29-million, for a total of 65-million
16 in 2021 for TWC's childcare.

17 We got some additional information from LBB
18 staff explaining what the logic was for that. I didn't
19 really understand at the time. Didn't have a supporting
20 document.

21 Essentially what LBB staff was doing when
22 they put that together; they were looking at the total
23 amount of child care funded out of the Child Care Block
24 Grant. And you might recall that number for Child Care
25 Block Grant for the state of Texas is about 520, 521-

1 million. So essentially, they set the not-to-exceed amount
2 in 20201 to that 521-million, and so they -- the math on
3 that was just to reduce our appropriation request by the 65-
4 million to achieve that number.

5 There is about 60-million available when you
6 kind of take all that into account when you look -- because
7 we had an increase in the middle of fiscal -- federal fiscal
8 year '18, the grant was increased from -- for that Child
9 Care Block Grant from 290-million to 520, so a 230-million
10 increase in the middle of '18, so we didn't ramp up
11 immediately, of course, in terms of using those funds. And
12 then our -- and then in '19 the grant has -- is at that
13 higher level of 520-million.

14 So you do all the math on that, basically
15 there was still a balance of 60-million available for the
16 State of Texas. When -- if we were approved for this extra
17 35-million, which is not an exceptional item request in
18 comparison to the introduced bill for child care program,
19 there would still be about 25-million left at the end of
20 fiscal '21.

21 So at this point we have submitted that to
22 the LBB staff, and then we're working on our testimony. I
23 did just want to make sure I clarified. We had to send in
24 our adjustments to the exceptional items. Of course, we
25 included the JET request, the 6-million, and the

1 apprenticeship request as been -- as was previously approved
2 by the commissioners, and we also submitted the 35-million
3 out of Child Care Block Grant federal funds to the LBB
4 staff.

5 And so I -- my understanding was when I heard
6 the comments from last time is that the preference of the
7 commissioners was certainly to restore that funding in 2021,
8 and so we sent that over being federally funded and
9 restoration to the base request that we had submitted
10 previously, as our number one request for the program
11 funding, so that's how it's been submitted.

12 The child care 35-million, number one, and
13 then the GR funded initiatives for JET and apprenticeship
14 two and three, respectfully for those. And then we continue
15 to have our capital budget request for our conditional
16 authority for our UI Trust Fund modernization, or upgrade,
17 and then our workforce manage -- case management system,
18 including those two systems.

19 So I just want to give you that update, and
20 hopefully that was -- I went back and listened to the
21 testimony to make sure I was -- I was hearing that
22 correctly. Unfortunately, Commissioner Thomas, I didn't
23 pick up on -- from your mic on that -- from that Commission
24 Meeting, but it sounded like that was the preference of the
25 commissioners, so if that's not right you can let me know

1 and we can see if we can, you know, get back to the -- to
2 the LBB stuff in time.

3 But I just wanted to provide that update to
4 you this morning. So that concludes my comments. If you
5 have questions or need additional information just let me
6 know.

7 COMM. THOMAS: Just for clarification on the
8 record, just I heard that my mic was cutting in and out.
9 Yes, I did concur, and I did believe that that needed to be
10 submitted, so thank you. I understood correctly from my
11 chair.

12 MR. TOWNSEND: Okay, thank you.

13 COMM. ALVAREZ: No questions.

14 CHAIR HUGHS: All right. Thank you for the
15 update, Randy.

16 AGENDA ITEM NO. 10

17 CHAIR HUGHS: All right, Item 10, Discussion,
18 Consideration and Possible Action Regarding the Report to eh
19 Governor and Legislature Concerning the Estimated
20 Unemployment Trust Fund Balance Pursuant to Texas Labor Code
21 Section 204.061, and the Estimated Employment and Training
22 Investment Holding Fund Balance Available for Transfer
23 Pursuant to Texas Labor Code Section 204.123.

24 MR. TOWNSEND: Good morning again Chair
25 Hughs, Commissioners. Again, for the record, Randy

1 Townsend, Chief Financial Officer.

2 Just give you the latest update on our
3 Unemployment Trust Fund. This will be our projected balance
4 for this upcoming October 1st, year. Just by way of
5 reminder, we started off October 1st of this past fall with
6 a balance in the Unemployment Trust Fund of almost 1.7-
7 billion. We had expected to have collections from employers
8 collections for Unemployment Trust Fund about 2.2 to 2.3-
9 billion. The estimated payout is now slightly under 1.9-
10 billion. So when you take all that into account, we're
11 estimating the trust fund balance this coming October 1st
12 will be about 2.1-billion, so there's going to be an
13 increase to the balance that we started the year with, of
14 course.

15 In compare -- the 2.1-billion in comparison
16 to the floor; the estimated floor currently is just above
17 1.1-billion, and so that would put the trust fund about 969-
18 billion above the floor based on our current estimate. So
19 just under the 2 percent ceiling actually is kind of just by
20 way of reference there.

21 Just to give you the low-point balance; we
22 expect the low-point to be just under 1.3-billion somewhere
23 in the middle of April. That would fund, currently, about
24 36 weeks of benefits at that point in terms of that part of
25 the year.

1 And then, finally, just to give you an update
2 on the Employment & Training Investment Assessment holding
3 fund, we started the year, the fiscal year, with 172-million
4 in that fund. We expect to add to that about 114-million,
5 taking into account the collection expense of about 390,000
6 that would have an ending balance of about 285 to 286-
7 million. At that point the trust fund being above the floor
8 this coming -- for the next state fiscal year, we would be
9 able to fund currently what's -- in our appropriations
10 request for the skills program at -- for the biennium about
11 \$44-million. So that would leave an estimated balance after
12 that transfer, in the holding fund, of about 242-million, or
13 so. All good news on that front as well.

14 Let me just share with you back on the trust
15 fund the -- some of the recent trends we've been
16 experiencing in terms of weekly benefits that we paid that
17 was about 36.7-million. That's a six-week average as of
18 January 5th. That's down about 14½ percent from the one-
19 year-ago average.

20 The unemployment initial claims were down
21 about 8.3 percent to 12 -- just around 12,600 initial claims
22 for that six-week average. And then, finally, the continued
23 claims are averaging about 108,770. That's about 70 percent
24 reduction from the one-year-ago average, so again, the
25 positive trends continue for the trust fund. And that

1 concludes my presentation this morning.

2 CHAIR HUGHS: Thank you, Randy.

3 Commissioners, any comments or questions? All right.

4 COMM. THOMAS: Thank you.

5 AGENDA ITEM NO. 11

6 CHAIR HUGHS: That brings us to Item 11,
7 Discussion, Consideration and Possible Action on the
8 Submission of the 2018 Texas Workforce Commission Annual
9 Report to the Governor and the Legislature, Pursuant to
10 Texas Labor Code section 301.065.

11 MS. GIVENS: Good morning Chair Hughs,
12 Commissioner Alverez, Commissioner Thomas, Mr. Serna and
13 Tom. For the record, Lisa Givens, Communications.

14 You have before you the 2018 Texas Workforce
15 Commission Annual Report for your consideration and
16 approval. On the January 15th commission meeting you asked
17 staff to work on revisions and bring back a draft that
18 included a shortened version of the letter, as well as
19 moving parts of the Commissioner's Message to the body of
20 the report.

21 So the version you have before you, marked as
22 Staff Recommendation Short Version 1, includes these
23 suggestions -- the redline version from last week is also in
24 the packet. So the first decision point is which version we
25 would like to proceed with, and looking at the staff

1 recommendation for discussion of this case.

2 CHAIR HUGHS: Commissioners, do you have a
3 preference on which version to proceed with; the one that
4 has been amended to be shortened, or the longer version that
5 was previously submitted, are the options before us.
6 Commissioner Alvarez?

7 COMM. ALVAREZ: I think we all agree that
8 shortened version would be good.

9 CHAIR HUGHS: Commissioner Thomas? Okay.
10 We're in agreement, and certainly proceed with the shortened
11 version.

12 MS. GIVENS: Okay, thank you. So just
13 knowing that we did have one amendment that includes
14 portions that were inadvertently left out by staff does
15 include the mention of the Education Specialist Initiative,
16 and paragraph on Camp Code. So we are recommending that we
17 insert those on page 24 after line 30, in the section
18 entitled Career Planning Services for Students.

19 CHAIR HUGHS: Okay, Commissioners, do we --
20 are we in agreement? Any comments or questions on that
21 request for staff to amend or to add in? Did you delete and
22 add in, or just inadvertently didn't include it?

23 MS. GIVENS: It did not carry over from a
24 previous version. It was intended to be included.

25 CHAIR HUGHS: Okay. Are we in agreement to

1 accept that?

2 COMM. THOMAS: Yeah. I've read the -- just
3 the two paragraphs. I'm comfortable with it.

4 CHAIR HUGHS: Okay.

5 MS. GIVENS: Thank you.

6 CHAIR HUGHS: Commissioner Alvarez?

7 COMM. ALVAREZ: No. Perfect. Thank you for
8 including it in the body of the report.

9 MS. GIVENS: Thank you, sir. Okay, I just
10 wanted to note that we had mentioned that we moved portions
11 of the letter to the body of the report, and just to
12 highlight those briefly; they included the section on
13 Hurricane Harvey, we expanded that in the section on
14 dislocated workers on page 22, lines 12 through 19.

15 We also expanded the reference to Jobs Y'all.
16 That appears on page 24, line 30 -- starting with line 31.
17 In addition, we included a section about the Texas
18 Internship Challenge, line 20 -- I'm sorry, page 24, line 4.
19 And then, lastly, we expanded, and we mentioned specific
20 examples of apprenticeship success stories on page 28, line
21 33.

22 CHAIR HUGHS: All right. Commissioners, any
23 further comments or questions? I understand you need a
24 motion from us to approve the report?

25 MS. GIVENS: Yes, please.

1 CHAIR HUGHS: So with these amendments, is
2 there a motion?

3 COMM. THOMAS: So moved.

4 COMM. ALVAREZ: I'll second that.

5 CHAIR HUGHS: All right. And that's a motion
6 to accept the annual report as amended and presented by
7 staff, the shortened version. I also agree, and so we have
8 the unanimous vote on that. Thank you.

9 MS. GIVENS: Thank you so much.

10 COMM. ALVAREZ: Thank you. Thank you, Lisa
11 and Tom.

12 COMM. THOMAS: Thank you, guys.

13 AGENDA ITEM NO. 12

14 CHAIR HUGHS: All right. Item 12,
15 Discussion, Consideration and Possible Action Regarding
16 Approval of the Local Workforce Development Board Nominees.

17 MR. BELL: Good morning, Madam Chair,
18 Commissioners, Mr. Serna. Cameron Bell, Workforce
19 Development Division. Before you for approval are Workforce
20 Development Board Nominees for Workforce Solutions Concho
21 Valley, Deep East Texas, Golden Crescent, Greater Dallas,
22 Northeast Texas, and Southeast Texas.

23 CHAIR HUGHS: Commissioners, any comments or
24 questions? Is there a motion?

25 COMM. ALVAREZ: I move that we approve the

1 board nominees for Concho Valley, Deep East Texas, Golden
2 Crescent, Greater Dallas, Northeast Texas, and Southeast
3 Texas as recommended by staff.

4 COMM. THOMAS: Second.

5 MR. BELL: Thank you.

6 CHAIR HUGHS: We are unanimous. Thank you.

7 AGENDA ITEM NO. 13

8 CHAIR HUGHS: There is nothing for Item 13.

9 AGENDA ITEM NO. 8

10 CHAIR HUGHS: Maybe read to take -- I see
11 Courtney Arbour approaching, so I'm guessing we're ready to
12 take up Item 8 again. Let's return to Item 8 to look at the
13 acceptance of pledges for Board Contract Year 2019 Child
14 Care Matching Funds, Courtney Arbour.

15 MS. ARBOUR: Sure -- Chair, Commissioners,
16 Mr. Serna. Courtney. Apologies for that. If any of you
17 were looking for a sneak peak on next week's amount, you now
18 have it.

19 Today staff is requesting Commission
20 acceptance of child care pledges for donations, transfers,
21 and certifications of expense in the amount of, Commissioner
22 Alvarez, \$8,994,526.

23 COMM. ALVAREZ: So you got more? No, I'm
24 just kidding.

25 MS. ARBOUR: Next week -- next week a new

1 number.

2 COMM. ALVAREZ: Yes.

3 CHAIR HUGHS: Ah, preview. I see. Okay.

4 Well, that certainly matches what we had the opportunity to
5 review today with staff had presented, thank you,
6 Commissioner Alvarez, for noting that. Are there any
7 comments or questions about these amounts? All right. Do
8 we have a motion?

9 COMM. THOMAS: Move to adopt per -- accept
10 per staff recommendation \$8,994,526.

11 COMM. ALVAREZ: I'll second that.

12 CHAIR HUGHS: All right. We are unanimous.
13 Thank you, Courtney.

14 MS. ARBOUR: Thank you.

15 AGENDA ITEM NO. 14

16 CHAIR HUGHS: We are now back on Item Number
17 14, Discussion, Consideration and Possible Action Regarding
18 Guidance on Resource Utilization and Implementation of
19 Services and Strategy, Including Those Funded with the
20 Department of Labor's Disaster Dislocated Worker Grant, in
21 Response to Hurricane Harvey -- Funding Request for
22 Southeast Texas Workforce Board.

23 MS. ARBOUR: Again, for the record, Courtney
24 Arbour.

25 As you're aware, TWC has approved and awarded

1 grants totaling 26,450,000 to 7 local workforce boards to
2 serve individuals impacted by Hurricane Harvey. In a recent
3 decision by the Commission, it was on January 8th, the
4 Commission approved a funding request for Gulf Coast Board -
5 - as part of another action -- funding for Gulf Coast Board
6 totaling \$2.5-million, and we are asking today to reduce
7 that request so that 900,000 of that amount can be provided
8 to Southeast, so that they can continue providing services
9 to their Harvey-impacted participants. As a result of that,
10 the immediate amendment to Gulf Coast will be reduced from
11 what we thought would be 2.5 to 1.6-million.

12 So today, staff seeks approval -- and we've
13 discussed this with the -- with both board, and both are
14 amenable to this action. And as a reminder, we've requested
15 an additional \$5-million from Department of Labor, and at
16 that point we would continue to make Gulf Coast and submit
17 some other requests.

18 Today, staff seeks approval for 900,000 in
19 funding for Southeast to continue providing services, and to
20 reduce the previously approved Gulf Coast amount from 2.5-
21 million to 1.6-million. Can I answer any questions about
22 this?

23 CHAIR HUGHES: Do we have a motion?

24 COMM. ALVAREZ: I move that we approve
25 funding to the Southeast and Gulf Coast boards as

1 recommended.

2 COMM. THOMAS: Second.

3 CHAIR HUGHS: We are unanimous. Thank you,
4 Courtney.

5 MS. ARBOUR: Thank you.

6 AGENDA ITEM NO. 15

7 CHAIR HUGHS: Item 15 we have nothing. Are
8 there any --

9 AGENDA ITEM NO. 16

10 CHAIR HUGHS: Item 16, are there any updates
11 regarding enacted, proposed or considered Federal or State
12 legislation?

13 MR. McCARTY: Good morning, Chair Hughs,
14 Commissioner Alvarez, Commissioner Thomas. Tom McCarty of
15 External Relations.

16 Congress is still negotiating the end of the
17 partial government shutdown, but yesterday the U.S. Senate
18 did pass HR 430, which is the TANF Extension Act of 2019.
19 The bill extends to temporary assistance for needy family
20 programs through June of 30 -- June 30th, 2019. The bill is
21 now on the President's desk waiting for his action.

22 Last week you all noticed that Governor
23 Patrick -- Lieutenant Governor Patrick had announced Senate
24 committee assignments for the 86th Legislature. Senator
25 Nelson will be the Chair of Appropriations, Senator Birdwell

1 is the Chair of Senate Natural Resources and Economic
2 Development, Senator Kolkhorst is the Chair of Senate Health
3 and Human Service, and Senator Buckingham is the Chair of
4 Nominations.

5 Next week TWC has been requested to testify
6 before the Senate Finance Committee on Thursday, January the
7 31st, at 9:00 a.m. is when the posting -- when the hearing
8 will start. We'll meet and testify later on in that day,
9 and we'll also have draft testimony for you all to review as
10 early as today, that we'll get that out to you all.

11 That concludes my remarks and I'm happy to
12 answer any questions you have.

13 COMM. THOMAS: Any rough idea of when -- what
14 time we expect the committee to get to TWC?

15 MR. McCARTY: No, sir, not right now. We'll
16 have staff monitoring it throughout the day. They tend to
17 go in the order of the posting, and we're always towards the
18 bottom.

19 COMM. THOMAS: Right.

20 MR. McCARTY: We're usually the last three,
21 you know, two or three agencies at the bottom is where we
22 usually reside. Typically, it's been later in the day,
23 around 2:00, 3:00, 4:00. Just varies with how much they
24 have to take up with the agencies before us.

25 COMM. THOMAS: Makes sense, thank you.

1 MR. McCARTY: Yes, sir.

2 COMM. ALVAREZ: Tom, I want to thank you and
3 Michael and, of course, Alison, for keeping us posted on all
4 of these things that are very important to all of us, so
5 thank you.

6 MR. McCARTY: Thank you.

7 CHAIR HUGHS: Thank you, Tom.

8 AGENDA ITEM NO. 17

9 CHAIR HUGHS: All right, Item 17, Ed, do we
10 have any updates?

11 MR. SERNA: No, ma'am. No updates.

12 AGENDA ITEM NO. 18

13 CHAIR HUGHS: All right. Is there a motion
14 to adjourn?

15 COMM. THOMAS: So moved.

16 COMM. ALVAREZ: Second that.

17 CHAIR HUGHS: All right, we are adjourned.
18 Thank you.

19 (Proceedings concluded at 9:55:34 a.m.)
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C E R T I F I C A T E

STATE OF TEXAS)

COUNTY OF TRAVIS)

I, Kimberly C. McCright, Certified Vendor and Notary 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 6th day of February, 2019.

/s/ Kimberly C. McCright
Kimberly C. McCright
Certified Vendor and Notary Public

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