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TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS WORKFORCE COMMISSION
AUSTIN, TEXAS

PUBLIC MEETING)
FOR THE TEXAS)
WORKFORCE COMMISSION)

COMMISSION MEETING
TUESDAY, DECEMBER 18TH, 2018

BE IT REMEMBERED THAT at 9:00 a.m. on
Tuesday, the 18th day of December, 2018, 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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P R O C E E D I N G S

TUESDAY, DECEMBER 18, 2018

(9:00 a.m.)

AGENDA ITEM NO. 1

CHAIR HUGHS: Good morning. The meeting is called to order. MR. Trobman, has anyone signed up for public comment?

AGENDA ITEM NO. 2

MR. TROBMAN: Nope.

CHAIR HUGHS: All right no one has signed up. 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 Dockets 50 and 51

1 The Commission considered and took action on all tax
2 liability cases listed on Dockets 50 and 51.

3 AGENDA ITEM NO. 5

4 Discussion, Consideration and Possible Action
5 Regarding Fair Housing Cases listed on the Texas Workforce
6 Commission Dockets 50 and 51.

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 Dockets 50 and 51.

12 The Commission considered and took action on
13 all wage claim cases listed on Dockets 50 and 51.

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 Dockets 50
18 and 51.

19 The Commission considered and took action on
20 all unemployment compensation cases listed on Dockets 50 and
21 51.

22 AGENDA ITEM NO. 8

23 CHAIR HUGHS: All right. We are now back in
24 session. Item 8, Discussion, Consideration and Possible
25 Action Regarding the Acceptance of Pledges for Board

1 Contract Years 2018 and 2019 Child Care Matching Funds.

2 MS. TROKE: Good morning Chair Hughs,
3 commissioners, Mr. Serna. For the record, Jen Troke,
4 Workforce Development Division.

5 Annually local workforce development boards
6 submit local match pledges to secure federal childcare funds
7 pursuant to Commission Rule 800.73.

8 Today I will be asking for two votes. The
9 first is now the Commission's acceptance of 2019 child care
10 pledges for donations, transfers, and certifications of
11 expenses in the amount of \$7,508,611.

12 COMM. THOMAS: So moved.

13 COMM. ALVAREZ: I second that.

14 MS. TROKE: Thank you.

15 CHAIR HUGHS: We are unanimous.

16 MS. TROKE: Thank you. The second vote is
17 now to the commission's acceptance of 2018 amendments to
18 child care pledges for donations, transfer and
19 certifications of expenses in the amount of \$202,173.

20 COMM. THOMAS: So moved.

21 COMM. ALVAREZ: I'll second.

22 MS. TROKE: Thank you.

23 CHAIR HUGHS: We are unanimous. Thank you.

24 AGENDA ITEM NO. 9

25 CHAIR HUGHS: Item 9, Discussion,

1 Consideration and Possible Action Regarding Adoption of
2 Rules relating to Texas Rising Star Guidelines, 40 TAC
3 Chapter 809, Previously Published for Comment in the Texas
4 Register on August 17, 2018. Jason Vaden, good morning.

5 MR. VADEN: Good morning, commissioners. For
6 the record, Jason Vaden, Workforce Division. On July 31st
7 proposed amendments to the Chapter 809 Childcare Rules were
8 approved. The proposed rulemaking incorporated feedback
9 from the Texas Rising Star Program from a -- from a work
10 group that was convened earlier this year comprised of
11 workforce system and community stakeholders.

12 Work group members commented on providing
13 consistent decreases in star level reductions, reducing
14 minimum sit-out time frames and amending professional
15 development in continuing education requirements.

16 The rule proposal was posted in the Texas
17 Register for a 30-day public comment period. One comment
18 was received supporting the consistent drop in star level as
19 set forth in the rule proposal, while also recommended --
20 recommending that consideration be given to increasing the
21 number of critical deficiencies that would trigger a drop in
22 star level.

23 Recognizing the vital importance of health
24 and safety standards as noted in detail in the preamble of
25 the final rule no modifications were made to the final rule

1 language before you today based on public comment.

2 This morning staff seeks direction on final
3 adoption of the Chapter 809 Childcare Rules set forth in the
4 materials. That concludes my remarks and I'm happy to
5 answer any questions you may have.

6 CHAIR HUGHS: Any questions or comments?

7 COMM. THOMAS: No questions.

8 CHAIR HUGHS: Thomas, Commissioner Alvarez?

9 COMM. ALVAREZ: I move that we adopt the
10 amendments to Chapter 809 rules as previously published in
11 the Texas Register.

12 COMM. THOMAS: Second.

13 CHAIR HUGHS: We are unanimous. Thank you.

14 AGENDA ITEM NO. 10

15 CHAIR HUGHS: Item 10, Discussion,
16 Consideration and Possible Action Regarding Adoption of
17 Rules Relating to Board Oversight Capacity, 40 TAC Chapter
18 802, Previously Published for Public Comment in the Texas
19 Register on August 17, 2018.

20 MR. VADEN: Commissioners, also on July 31st
21 proposed amendments for the Chapter 802 integrity of the
22 Texas Workforce System Rules specific to Board oversight
23 capacity were approved. The proposed rule language amended
24 802.67 b6 will encompass severe board oversight program --
25 problems, and included a definition of the term "severe" and

1 "long-standing". The rule proposal was posted in the Texas
2 Register for a 30-day public comment period. No comments
3 were received, and as a result no modifications were made to
4 the final rule language before you today.

5 This morning staff seeks direction on final
6 adoption of the Chapter 802 Integrity of the Texas Workforce
7 System Rules, pertaining to board oversight capacity as set
8 forth in your materials. That concludes my remarks and I'm
9 happy to answer any questions.

10 CHAIR HUGHS: Commissioner Thomas, any
11 comments or questions?

12 COMM. THOMAS: No, just a motion to approve
13 per staff's request.

14 COMM. ALVAREZ: I'll second that.

15 CHAIR HUGHS: Right, we are unanimous. Thank
16 you, Jason.

17 AGENDA ITEM NO. 11

18 CHAIR HUGHS: But before you go: Item 11,
19 Discussion, Consideration and Possible Action Regarding the
20 Workforce Innovation and Opportunity Act Annual Report
21 Narrative for Program Year 2017 for Submission to the U.S.
22 Department of Labor.

23 MR. VADEN: Okay, one last time here. The
24 Workforce Innovation and Opportunity Act requires states to
25 submit an annual report to the U.S. Department of Labor each

1 year. The report before you today encompasses program year
2 2017 for the WIOA Title I and employment services programs.
3 The report includes a narrative about the integration of the
4 Texas Workforce System, Waver flexibility, employer
5 measures, research and evaluation projects, our performance
6 accountability system, and information on customer
7 satisfaction. Also included are highlights of statewide
8 initiatives, national dislocated worker grant activity, and
9 success stories.

10 Today staff seeks direction on approval of
11 the Workforce and Innovation Opportunity Act annual report
12 for submission to the U.S. Department of Labor. I'd be
13 happy to answer any questions you have.

14 CHAIR HUGHS: Commissioner Thomas?

15 COMM. ALVAREZ: No questions.

16 CHAIR HUGHS: Commissioner Alvarez? All
17 right. Do we have a motion?

18 COMM. THOMAS: I move that we approve the
19 Workforce Innovation and Opportunity Act Annual Report
20 Narrative for Program Year 2017 for submission to the
21 Department of Labor.

22 COMM. ALVAREZ: Second.

23 CHAIR HUGHS: We are unanimous. Thank you,
24 Jason. And I do want to ask Adam to keep updating us on the
25 measures that are mentioned briefly on the top of page 4 in

1 terms of our concerns and look for word of those briefings
2 going forward. Thank you.

3 AGENDA ITEM NO. 12

4 CHAIR HUGHS: Item 12, Discussion,
5 Consideration and Possible Action Regarding Approval of
6 Products Offered by Certified Community Rehabilitation
7 Programs under the Purchasing from People with Disabilities
8 State-Use Program. Good morning, Kelvin.

9 MR. MOORE: Good morning. Good morning Chair
10 Hughs, commissioners, Mr. Serna. For the record, my name is
11 Kelvin Moore, Program Manager, Purchasing from People with
12 Disabilities and the Texas Workforce Commission.

13 We have before you Item 12, listing of new
14 and revised products that have been offered by community
15 rehabilitation programs, or CRBs through the State-Use Works
16 Wonders Program.

17 Two CRPs are submitting three new products
18 and two CRPs are submitting 32 products for price revisions.
19 Product price revisions items 7 through 32 are postponed
20 pending price research by staff.

21 We are recommending approval of the product.
22 Are there any questions?

23 CHAIR HUGHS: Commissioner Thomas, do you
24 have any questions?

25 COMM. THOMAS: No.

1 CHAIR HUGHS: Commissioner Alvarez?

2 COMM. ALVAREZ: No, no questions.

3 CHAIR HUGHS: Is there a motion?

4 COMM. ALVAREZ: I move that we approve the
5 new and revised products offered by community rehabilitation
6 programs as recommended by staff.

7 COMM. THOMAS: Second.

8 CHAIR HUGHS: We are unanimous.

9 AGENDA ITEM NO. 13

10 CHAIR HUGHS: Item 13, Discussion,
11 Consideration and Possible Action Regarding New
12 Certification and Re-Certification of Community
13 Rehabilitation Programs to Participate in the Purchasing
14 from People with Disabilities State-Use Program.

15 MR. MOORE: For the record, Kelvin Moore,
16 Program Manager of Purchasing From People With Disabilities
17 Program.

18 We have before you Agenda Item 13 for the
19 certification of one community rehabilitation program,
20 that's Xtra Spark Cleaning Services of Houston, Texas.
21 Staff has reviewed all the materials presented by the CRP.
22 In addition, we worked with the central nonprofit agency to
23 review with community rehabilitation programs.

24 Staff recommends certification of Xtra Spark
25 Cleaning Services. Are there any questions?

1 CHAIR HUGHS: Any questions?

2 COMM. ALVAREZ: No questions.

3 CHAIR HUGHS: Is there a motion?

4 COMM. THOMAS: Motion to approve per staff
5 recommendation.

6 COMM. ALVAREZ: I second that.

7 CHAIR HUGHS: We are unanimous. Thank you.

8 AGENDA ITEM NO. 9

9 CHAIR HUGHS: (Indiscernible) You need to
10 revise the language? Okay. I haven't gone to 14. Should
11 we bring up nine now?

12 COMM. ALVAREZ: That would be great.

13 CHAIR HUGHS: Okay, let's do that.

14 COMM. ALVAREZ: (Indiscernible)

15 CHAIR HUGHS: Item 9, on the rising star
16 guidelines.

17 COMM. ALVAREZ: On the Rising Star
18 Guidelines.

19 CHAIR HUGHS: Okay.

20 COMM. THOMAS: Not registered -- not the
21 Texas Register.

22 CHAIR HUGHS: Okay.

23 COMM. ALVAREZ: So I think it would be -- I
24 move that we adopt the amendment to Chapter 809 rules as
25 recommended by staff -- should be the motion.

1 COMM. THOMAS: Okay.

2 CHAIR HUGHS: If we could have Jason Vaden
3 please come up again. We're gonna revisit Item 9
4 momentarily. Thank you, Diane, we'll get on to Item 14 here
5 in a moment. Item 9 was Discussion, Consideration and
6 Possible Action Regarding Adoption of Rules Relating to
7 Texas Rising Star Guidelines Previously Published for
8 Comment in the Texas Register on August 17, 2018. And I
9 understand there's an amended motion for the record.

10 MR. VADEN: Sure. Commissioners, if I could
11 just clarify, we did have a commenter who submitted multiple
12 comments. No changes were actually made to the rule
13 language themselves. There was a response to that comment
14 in the preamble, though, so that is the only change from the
15 actual rule proposal that was posted in the register.

16 COMM. ALVAREZ: Fantastic. I move that we
17 adopt the amendments to the Chapter -- to the Chapter 809
18 rules as recommended by staff.

19 COMM. THOMAS: I'll second that.

20 CHAIR HUGHS: We are unanimous. Thank you.

21 MR. VADEN: Thank you.

22 AGENDA ITEM NO. 14

23 CHAIR HUGHS: And now -- now to Item 14,
24 Discussion, Consideration and Possible Action Regarding
25 Approval of Services Offered by Certified Community

1 Rehabilitation Programs Under the Purchasing from People
2 with Disabilities State-Use Program.

3 MR. JOSEPH: Good morning Chair Hughs,
4 Commissioner Alvarez, Commissioner Thomas. For the record,
5 my name is Howard Joseph, Program Manager for Purchasing
6 from People with Disabilities Program.

7 I have before you Item 14 for the approval of
8 services. In regards to services, there are 12 contracts
9 (indiscernible) their temporary authority employing 39
10 individuals being paid above minimum wage. We got 237 new
11 and renewal contracts employing 6560 individuals being paid
12 over a third minimum wage. There are seven transfer
13 contracts employing 18 individuals, all are paid above
14 minimum wage.

15 Staff recommends approval of all service
16 contracts with the exception of items 159 and 254 in order
17 to not interrupt services being provided to state agencies,
18 allow us time to address issues with the CRPs staff
19 recommends these two contracts only be approved for 90 days.
20 I'll be happy to answer any questions.

21 CHAIR HUGHS: Any questions or comments
22 Commissioner Thomas? Any questions or comments Commissioner
23 Alvarez?

24 COMM. ALVAREZ: Just interesting ring tone.

25 CHAIR HUGHS: I do have one comment. I -- I

1 am -- I do notice that there are more exceptions than I
2 would have expected to see, and I'm not sure if there are
3 caps and limits on the number of exceptions, but I would
4 like a briefing on that process going forward.

5 MR. JOSEPH: Staff agrees. We're
6 recommending we'll talk to the central nonprofit and discuss
7 the issue, and also meet with your office.

8 CHAIR HUGHS: Thank you. I appreciate that.
9 Is there a motion?

10 COMM. THOMAS: Yes. I move that we approve
11 service contracts offered by CRPs under the Purchasing From
12 People with Disabilities Program as recommended by staffers.

13 COMM. ALVAREZ: Seconded.

14 CHAIR HUGHS: We are unanimous. Thank you,
15 Howard.

16 MR. JOSEPH: Thank you.

17 AGENDA ITEM NO. 15

18 CHAIR HUGHS: Item 15, Discussion,
19 Consideration and Possible Action Regarding Publication for
20 Public Comment the Proposed Amendments to Existing Rules
21 Relating to the Vocational Rehabilitation Services
22 Administrative Rules and Procedures, 40 TAC Chapter 850.

23 MS. PARKER: Good morning, Chair Hughs,
24 commissioners, Mr. Serna. For the record, Diane Parker with
25 the Office of General Counsel.

1 For your consideration today, we're bringing
2 four amendments to Chapter 850 of the Commission's rules
3 seeking approval to publish these proposed rules for public
4 comment.

5 Per Labor Code Section 352.101 the agency was
6 directed to integrate the Vocational Rehabilitation Programs
7 into a single program, including consolidating policies and
8 recommending the adoption of any necessary rules.
9 Consistent with this legislative mandate TWC is proposing to
10 repeal certain administrative provisions which overlap
11 existing TWC rules, and most critically, proposing an
12 integration of the appeal and hearing procedures per VR
13 blind and VR general into a single, consolidated set of
14 rules to govern VR appeal and hearing procedures in Chapter
15 850.

16 Other than reorganizing and updating the
17 terminology, the existing rules were combined and reordered,
18 but were not substantively changed in this rulemaking,
19 except for three items in subchapter e relating to the
20 appeals and hearing procedures.

21 These include: Adding language to propose
22 850.81(g) to better align with federal rules, adding
23 language to propose 850.60(a) to explain reasons for the
24 substitution of an impartial hearing officer, and adding
25 proposed 850.63 to formalize TWC's existing practice of

1 providing an opportunity for informal dispute resolution of
2 an appeal.

3 Based on the foregoing discussion staff
4 requests your approval to publish proposed Chapter 850 rules
5 for a 30-day public comment period, and if necessary, to
6 make any appropriate technical corrections. I'm available
7 for any questions.

8 CHAIR HUGHS: Thank you. Are there any
9 questions?

10 COMM. ALVAREZ: No questions.

11 CHAIR HUGHS: All right, is there a motion?

12 COMM. ALVAREZ: I move to a -- accept staff's
13 recommendation to publish the proposed rules for public
14 comment.

15 COMM. THOMAS: I'll second that.

16 CHAIR HUGHS: We are unanimous. Thank you.

17 MS. PARKER: Thank you.

18 AGENDA ITEM NO. 16

19 CHAIR HUGHS: Item 16, Discussion,
20 Consideration and Possible Action Regarding Form RSA-7-OB
21 Independent Living Services for Older Individuals who are
22 Blind Annual Report.

23 MS. GEIGER: Good morning Chair Hughs,
24 commissioners and Mr. Serna. For the record, I'm Carline
25 Geiger, Vocational Rehabilitation.

1 This morning we are bringing for your
2 consideration and approval the 7-OB Report, which is the
3 annual report for the Independent Living Service for Older
4 Individuals who are Blind Program. I-L-O-I-B.

5 The 7-OB Report contains information about
6 the program for the recently concluded fiscal year such as
7 funding and expenditures, data on individuals served,
8 services provided, and examples of customer success stories.

9 We are seeking your approval to submit the 7-
10 OB report to the Rehabilitation Services Administration by
11 the due date of December 30th, 2018. Are there any
12 questions?

13 COMM. ALVAREZ: No questions.

14 CHAIR HUGHS: Any questions? No? Is there a
15 motion?

16 COMM. THOMAS: I move that we approve the
17 annual report as recommended by staff.

18 COMM. ALVAREZ: Second.

19 CHAIR HUGHS: We are unanimous. Thank you to
20 you and your team for all the hard work on this report.

21 COMM. ALVAREZ: Uh-huh.

22 MS. GEIGER: Thank you.

23 AGENDA ITEM NO. 17

24 CHAIR HUGHS: Item 17, Discussion,
25 Consideration and Possible Action Regarding Submission of

1 the Report to the Texas Legislature on Progress of the Adult
2 Education and Literacy Strategic Plan.

3 MR. GREEN: Good morning Chair Hughs,
4 commissioners Thomas, Alvarez and Mr. Serna. For the
5 record, Anson Green, with Adult Education and Literacy.

6 In the AEL Strategic Plan for 2015 and 2020
7 the Commission outlined a 5-year vision for AEL, including
8 performance measures and amounts and the adult educate -- or
9 adult educators could focus their efforts towards 20,000
10 students in career pathways by the year 2020. The plan
11 outlines strategies and tactics for accomplishing a
12 workforce-driven employer-responsive AEL system and was the
13 product of forethought and collaboration between the
14 Commission, the AEL Advisory Committee, and AEL
15 stakeholders, including our boards.

16 (Indiscernible) 382 requires a report on the
17 implementation and annual progress of this plan to the Texas
18 Workforce Investment Council, the governor, and the
19 Legislative Budget Board on December of every year -- year.

20 Today I bring before you this progress report
21 outlining a wide variety of innovative services delivered
22 through AEL. I'm also pleased to present that we've
23 exceeded our plans and the goal of delivering career pathway
24 services to 20,000 Texans by 2020 two years early. More
25 than 22,000 students enrolled in over 660 career pathway

1 programs across 11 different provider -- 111 providers.
2 These models include collaboration with 75 different
3 employers with over 2000 workers in employer-based AEL
4 programs that support business competitiveness in Texas.
5 Various programs, spotlights on AEL providers, outline best
6 practices including employee partnerships.

7 Today I seek direction on this report to the
8 Texas Legislature, governor and Texas Workforce Investment
9 Council and happy to answer any questions.

10 CHAIR HUGHS: Commissioner Thomas, any
11 comments or questions?

12 COMM. THOMAS: I do. Thank you, Chair Hughs.
13 Anson, I just wanna let you know how unbelievably impressed
14 I am with this program, your leadership and your team.

15 MR. GREEN: Thank you.

16 COMM. THOMAS: This is, honestly, it's
17 inspiring and this is, of all the things I've been so
18 excited to learn about, this one really I'm beginning to
19 understand and appreciate just how critical it is to our
20 state, so thank you so much.

21 MR. GREEN: Okay, appreciate it.

22 COMM. ALVAREZ: Great report, Anson.

23 CHAIR HUGHS: Okay.

24 CHAIR HUGHS: And with that I move that we
25 approve the 2018 Report for Adult Education and Literacy

1 Strategic Plan.

2 CHAIR HUGHS: We are unanimous on all -- I'm
3 sorry, it hasn't been seconded.

4 COMM. THOMAS: Second.

5 CHAIR HUGHS: We are unanimous on all counts
6 and comments. So -- and thank you for -- to you and your
7 team for your work on this report.

8 AGENDA ITEM NO. 18

9 CHAIR HUGHS: Item 18, Discussion,
10 Consideration and Possible Action Regarding AEL Advisory
11 Committee Membership.

12 MR. GREEN: Good morning Chair Hughs,
13 commissioners Thomas and Alvarez and Mr. Serna. For the
14 record, Anson Green with Adult Education and Literacy.

15 Senate bill 307 of the interim Texas
16 Legislature regular session required that Texas Workforce
17 Commission establish an Adult Education and Literacy
18 Advisory Committee. On November 26th of 2018 the Commission
19 adopted TWC Adult Education Rule 805.43 which allows for the
20 appointment of members to additional two-year terms. These
21 rules became effective December 17th, 2018.

22 Terms for committee members Tiffany Johnson,
23 with Victoria College and Mary Jo Ochoa with Socorro ISD in
24 this month, and staff seek direction on appointing these two
25 members for additional two-year term. Thank -- thank you

1 very much for your consideration and I'm happy to answer any
2 questions.

3 CHAIR HUGHS: Any questions or comments,
4 commissioners? All right, is there a motion?

5 COMM. THOMAS: Motion to approve staff
6 recommendation.

7 COMM. ALVAREZ: I'll second that.

8 CHAIR HUGHS: We are unanimous. And thank
9 you to have dedicated and volunteered. We're really
10 grateful that they're willing to serve.

11 AGENDA ITEM NO. 19

12 CHAIR HUGHS: All right. Item 19,
13 Discussion, Consideration and Possible Action Regarding the
14 AEL Advisory Committee Annual Report.

15 MR. GREEN: Good morning Chair Hughs,
16 Commissioner Thomas and Alvarez and Mr. Serna. For the
17 record, Anson Green with Adult Education and Literacy.

18 TWC Adult Education and Literacy rule 805.43
19 requires the AEL Advisory Committee to submit an annual
20 written report to the commission. Here to present and
21 answer any questions on the annual advisory committee report
22 with recommendations for the Commission's consideration are
23 Presiding Officer Tiffany Johnson with Victoria College and
24 Donald Tracy with Austin Community College.

25 COMM. THOMAS: Good morning.

1 MR. TRACY: Good morning.

2 MS. JOHNSON: Good morning Chair Hughs,
3 Commissioner Alvarez, Commissioner Thomas and Mr. Serna.
4 For the record, I'm Tiffany Johnson, Presiding Officer, and
5 I'm presenting today with --

6 MR. TRACY: Donald Tracy from Austin
7 Community College.

8 MS. JOHNSON: This year's report includes
9 three recommendation for the -- recommendations for the
10 commissioners -- for the Commission's consideration.

11 In 2018 our committee has had four meetings,
12 along with several calls, to focus our recommendations. We
13 have a strong committee made up of AEL providers,
14 representatives from AEL providers, a board, apprenticeship,
15 colleges, and nonprofits and employers. So we've had
16 fruitful discussions on how AEL can meet the needs of our
17 workforce.

18 The first recommendation, which is an
19 extension of our 2017 annual report, relates to the
20 development of an AEL brand to promote employer engagement
21 in order to promote and expand awareness of local resources
22 in our communities. The second recommendation is on the
23 promotion of workplace literacy programs such as
24 apprenticeships, internships and mentorships. And our third
25 recommendation is on extending partnerships with community

1 colleges.

2 Donald Tracy, our -- one of our committee
3 members will share additional thoughts on our
4 recommendations.

5 MR. TRACY: Thank you for having us this
6 morning, commissioners. As we all know the world of work is
7 changing. Technology is changing every day. Processes are
8 being improved in business and creative destruction in the
9 marketplace is changing the way work is done and the skills
10 that are required for that work. And so there's a
11 corresponding increase in the need for incumbent worker
12 training that comes from that.

13 And so we feel like it's -- it's critically
14 important for those of us in the workforce system to support
15 our employers. And how do we do that? We do that beginning
16 with adult education and literacy programing that helps to
17 build confidence and competence and capability across our
18 workforce.

19 Those of us that are in the community college
20 system also look at guided pathways as a way of -- of
21 directing individuals toward work opportunity -- work
22 opportunities, excuse me. And so it's important for us to,
23 in that work, to create clear articulations from adult basic
24 education to workforce training to academic training that
25 leads to market value credentials and good jobs for our

1 individuals.

2 The recommend -- recommendations that we have
3 before you; the first two support that need for helping to
4 build competence and confidence and capability in the
5 workforce, and then the third one helps us in building
6 integrated pathways. So that we can prepare our individuals
7 who are currently in the workforce for the good jobs that
8 are coming in the future. Thank you very much.

9 CHAIR HUGHS: Thank you both.

10 MS. JOHNSON: Thank you, Don. Finally, on
11 behalf of the AEL Advisory Committee I'd like to express our
12 appreciation for the continued support from the Commission
13 and the efforts of the AEL state office in the field of
14 education and literacy. And we'll be happy to answer any
15 questions the Commission may have.

16 CHAIR HUGHS: Thank you. Comments or
17 questions Commissioner Thomas?

18 COMM. THOMAS: I would just like to thank
19 your entire committee. I won't read the list, but it's on
20 page two of the report before us, and thank you two in
21 particular for your outstanding representation of your
22 committee today. Your service is amazing. Thank you.

23 COMM. ALVAREZ: I'd also like to take this
24 opportunity for you to -- for your volunteerism and for the
25 input and is an excellent -- so we -- and thank you for the

1 partnerships and for thinking outside the box. So
2 congratulations to both of you, Anson, great job.

3 CHAIR HUGHS: And I, too, wanna congratulate
4 the AEL great programs and strides that the program has made
5 and the great work that the committee does to advance that
6 and we're gonna continue to -- to support you in your
7 efforts, so thank you for that presentation.

8 MR. TRACY: Thank you.

9 AGENDA ITEM NO. 20

10 CHAIR HUGHS: All right. Item 20,
11 Discussion, Consideration and Possible Action Regarding
12 Submission of the AEL End-of-Year Federal Report to the
13 Department of Education for Program Year 2017 and 2018.

14 MR. GREEN: Good morning Chair Hughs,
15 commissioners Thomas and Alvarez and Mr. Serna. For the
16 record, Anson Green, Adult Education Literacy. Today I
17 bring before you for discussion, consideration and possible
18 action our annual report to the US Department of Education
19 on Adult Education and Family Literacy Ed Programs.

20 The report outlines AEL uses of state
21 leadership funds for commission-directed special
22 initiatives, our state technical assistance model, and some
23 of our system performance, among other items.

24 We request your approval of this report, and
25 the ability to make any technical edits prior to submission

1 in December. Thank you and I'll be happy to answer any
2 questions.

3 CHAIR HUGHS: Commissioner Alvarez do you
4 have any comments or questions?

5 COMM. ALVAREZ: No.

6 CHAIR HUGHS: Commissioner Thomas?

7 COMM. THOMAS: No ma'am.

8 CHAIR HUGHS: All right, is there a motion?

9 COMM. ALVAREZ: I move that we approve the
10 Adult Education and Literacy Report -- Literacy End-of-Year
11 Report for program 2017 through 2018

12 COMM. THOMAS: Second.

13 CHAIR HUGHS: We are unanimous. Thank you.

14 AGENDA ITEM NO. 21

15 CHAIR HUGHS: Item 21, Discussion,
16 Consideration and Possible Action Regarding Fair Housing
17 Complaints, TWCCRD number 1190027-HU-HUD number 06-19-3872-8
18 and TWCCRD number 1190027-HU-HUD number 06-19-3871-8 filed
19 by the Director of the Civil Rights Division Complaint --
20 complain -- Complainant. Excuse me. It's getting later in
21 the morning, Lowell, I'm sorry, and I'm losing my voice.
22 But please --

23 MR. KEIG: Lowell Keig, Civil Rights
24 Director. I'm speaking from the lowest podium at this time.

25 CHAIR HUGHS: Yes. I saw that.

1 COMM. THOMAS: But the most impressive
2 baritone.

3 MR. KEIG: What's that?

4 COMM. THOMAS: But the most impressive
5 Baritone.

6 MR. KEIG: For your consideration today, the
7 Civil Rights Division is recommending approval of two fair
8 housing complaints that were filed which were based on
9 referrals from the Texas Department of Health and Community
10 Affairs.

11 The first complaint using only numbers
12 without names to protect the confidentiality at this stage
13 is TWC's CRD number 1190027-HU and HUD number 06-19-3872-8.
14 The complainant alleges that an assisted living facility is
15 engaged in discriminatory conduct by not allowing families
16 with children to apply or reside in the property. Pursuant
17 to rule 819.151H if the complainant -- if the complaint is
18 approved the investigation shall continue, but if not
19 approved the complaint shall be withdrawn by the division.
20 Are there any questions from the dais?

21 CHAIR HUGHS: Any comments or questions on
22 the first complaint? All right, is there a motion on the
23 first complaint?

24 MR. KEIG: Staff recommends approval of this
25 complaint.

1 COMM. THOMAS: So moved.

2 COMM. ALVAREZ: I'll second that.

3 CHAIR HUGHS: Okay. We're unanimous. Thank
4 you.

5 MR. KEIG: The second complaint, TWC CRD
6 number 1190028-HU and HUD number 061938718
7 alleges accessibility, design and construction violations in
8 multi-family housing community. Are there any questions
9 from the dais?

10 CHAIR HUGHS: Any questions on this --

11 COMM. ALVAREZ: No questions.

12 CHAIR HUGHS: -- commissioner? Okay.

13 COMM. THOMAS: No questions.

14 CHAIR HUGHS: I do have a request on this
15 one. I'm not ready to approve this complaint at the time,
16 and I'd ask my fellow commissioners if they'd consider
17 having it resubmitted on a docket in January to allow time
18 to review whether there's any remedial action taken by the
19 property owner in the meantime that might resolve the issues
20 brought forward by the complainant.

21 COMM. THOMAS: I have some concerns based
22 upon staff's -- I appreciate the context and opportunity to
23 discuss it. I have some concerns about that given I had
24 some very similar questions around this, Chair Hughs.

25 CHAIR HUGHS: Uh-huh.

1 COMM. THOMAS: I felt very confident given
2 the length of time and the extensiveness of the -- both the
3 notification to address the issues as well as what appeared
4 to be intentional -- at least potentially potential
5 misrepresentations. So if -- my concern would be not giving
6 our staff approval at this time to proceed and hopefully
7 that might get somebody's attention.

8 CHAIR HUGHS: Okay, so what do you think,
9 Commissioner Alvarez?

10 COMM. ALVAREZ: Well at this time, after
11 talking it all -- at this time I will -- I would accept
12 staff's recommendation.

13 COMM. THOMAS: Then I would second that.

14 CHAIR HUGHS: Okay, so let the record reflect
15 commissioners Alvarez and Thomas approved the second
16 complaint and I was in favor of postponing approval with
17 denial until after the first of the year. Thank you,
18 Lowell, and thank you for that explanation. I appreciate
19 it.

20 AGENDA ITEM NO. 22

21 CHAIR HUGHS: Item 22, Discussion,
22 Consideration and Possible Action of the Equal Employment
23 Opportunity and Minority Hiring Practices Report for Fiscal
24 Years 2017 and '18.

25 MR. KEIG: Again, Lowell Keig, Supervisor

1 Division Director for the record. For your consideration
2 today, the Labor Market Career Information Department and
3 the Civil Rights Division present the dread Equal Employment
4 Opportunity and Minority Hiring Practices Report for fiscal
5 years 2017 and 2018. Report is to be delivered to the
6 legislature, the legislative budget board, and the governor.
7 This draft of report has been prepared to fill the EEO data
8 reporting requirements under Chapter 21 of the Texas Labor
9 Code. Specifically, Section 21.0035 relating to the state-
10 wide civilian workforce composition, Section 21.504,
11 mandating the minority hiring practices report for state
12 agencies which includes institutions of higher learning, and
13 Section 21.553 requiring the equal employment opportunity to
14 report for state agencies. This report provides detailed
15 information by prescribed job categories on the civilian
16 workforce, new hires of state agencies, and the workforce
17 composition of state agencies.

18 We especially wanted to thank the comptroller
19 of public accounts, otherwise known as the controller of
20 public accounts, and the Office of the State Demographer for
21 their assistance and production of the data.

22 Staff recommends adoption of this report by
23 the commission and that staff be authorized to make any non-
24 substantive and equitable corrections that's deemed
25 necessary. This concludes my presentation. I would be glad

1 to answer any questions you might have.

2 CHAIR HUGHS: Any questions or comments?

3 Commissioner Thomas? Commissioner Alvarez?

4 COMM. THOMAS: No.

5 CHAIR HUGHS: Is there a motion?

6 COMM. THOMAS: Move to approve per staff's
7 recommendation.

8 COMM. ALVAREZ: I'll second that.

9 CHAIR HUGHS: We are unanimous. Thank you,
10 Lowell.

11 MR. KEIG: Thank you.

12 AGENDA ITEM NO. 23

13 CHAIR HUGHS: Item 23, Discussion,
14 Consideration, Possible Reaction Regarding Report to the
15 Governor and Legislative Leadership Offices Concerning the
16 Estimated Unemployment Trust Fund Balance Pursuant to Texas
17 Labor Code Section 204.061, and the Estimated Employment and
18 Training Investment Holding Fund Balance Available for
19 Transfer Pursuant to Texas Labor Code Section 204.123.

20 MR. TOWNSEND: Good morning, Chair Hughs,
21 commissioners. For the record, Randy Townsend, Chief
22 Financial Officer.

23 This morning, commissioners, I'm providing an
24 update on the Unemployment Trust Fund Balance. We're using
25 information available as of December 10th of this year the

1 projected balance be providing this morning I'll be
2 providing this morning will be for next September -- or,
3 this upcoming September 30th, in eight months.

4 Let me just begin with the estimated -- with
5 the balance that we started the year with, this would be
6 back in October, when you had a -- a balance of 1-billion
7 683-million. We expect to collect from employers for this
8 program year a little over 2.2-billion. The -- we had in
9 the interest on the balance we had about 44-million. We are
10 currently estimating the unemployment benefit payout for the
11 program year will be 1-billion, 850-million, roughly. That
12 would leave us a balance in the trust fund of 2-billion,
13 129-million.

14 That trust fund balance would exceed our
15 estimated floor amount by 997-million is the current
16 estimate. When you look at the lowest point in the spring
17 time for the trust fund balance we estimate the balance of
18 that -- at that low point could be about 1.3-billion at that
19 point in time, which would be roughly 37 weeks of benefit
20 payments that it would -- it would be able to afford at --
21 at the current rate of payment. So all good news at this
22 point.

23 Let me also provide an update to you on our
24 Employment and Retraining Investment Assessment, the ETI
25 Holding Fund. We began the year, so State Fiscal Year basis

1 by 172-million. We expect to collect about 114-million, and
2 then when you take into account the collection expense that
3 we would expect to have a balance of about 286-million and
4 then this following September would -- extending our
5 appropriation for skills, 44-million that we had submitted
6 as our request we would anticipate a balance in the ETI
7 holding fund next August of 214-million.

8 Let me now just share some recent trends for
9 our Unemployment Trust Fund, back to that. Weekly benefit
10 payments for the -- this'll be for six weeks ending December
11 1st, was 31-million. That's about 19 percent lower than our
12 total from a year ago. The initial claims were averaging
13 for the six weeks 12,719 -- 12,719, almost 10 percent below
14 one year ago average. Finally, our continued claims,
15 unemployment continued claims, were averaging for the week
16 ending December 1st 100,447, and that was almost 22 percent
17 below the one year ago total.

18 So, the percentages are still in a
19 positive direction, and our balances are (indiscernible) at
20 this point in time. And that concludes my presentation this
21 morning.

22 CHAIR HUGHS: Thank you, Randy. Commissioner
23 Thomas, do you have any comments or questions?

24 COMM. THOMAS: No.

25 CHAIR HUGHS: Commissioner Alvarez?

1 COMM. ALVAREZ: Thank you, Randy.

2 CHAIR HUGHS: Appreciate the update. Great
3 news.

4 AGENDA ITEM NO. 24

5 CHAIR HUGHS: Item 24, Discussion,
6 Consideration and Possible Action Regarding Legislative
7 Proposals by the Texas Workforce commission to the 86th
8 Legislative Regular Session. Good morning.

9 MR. BRITT: Good morning Chair Hughs,
10 Commissioner Alvarez, Commissioner Thomas. For the record,
11 Michael Britt, Governmental Relations.

12 Today I'm presenting for your consideration
13 TWC's legislative proposals for the 86th Texas Legislature.
14 These proposals have been submitted by Chair Hughs,
15 Commissioner Alvarez, and TWC's Civil Right External
16 Relations and Regulatory Integrity divisions.

17 Chair Hughs and Commissioner Alvarez, for
18 your proposals I will introduce each proposal and then yield
19 to you for layout and discussion. For the agency proposals
20 I will lay out each proposal and division staff are in
21 attendance to answer any technical questions that you may
22 have. Are there any questions before I get started?

23 CHAIR HUGHS: No. Thank you, Michael. I do
24 think it's good for the proponent of each one to -- to lay
25 out their reasons and then have an opportunity for comments

1 before a vote so everyone's heard before we're voting. So
2 aggregable?

3 MR. BRITT: Yeah. That's what I meant too,
4 the process.

5 CHAIR HUGHS: Uh-huh.

6 MR. BRITT: Yeah. All right. Well,
7 beginning on page 3 of your packets we have Chair Hughs's
8 proposal regarding the exception to the definition of
9 employment for certain entrepreneurs and federal conformity.
10 Chair Hughs?

11 CHAIR HUGHS: Thank you. Some entrepreneurs
12 who establish their own corporations, LLC or professional
13 entities feel that treating them as employees of their
14 corporate entities and requiring their companies to pay
15 taxes on their earnings is unjust and illogical, either
16 because they would never intend to collect unemployment
17 benefits based on their earnings from their own companies,
18 or because they consider themselves to be just as unemployed
19 or self-employed as those entrepreneurs whose sole
20 proprietorships or partnerships do not have a corporate
21 structure.

22 To address these concerns, I'm suggesting
23 that the two could be amended to exclude certain business
24 owners who make an appropriate election from the definition
25 of covered employers -- employees. Excuse me.

1 Are there any comments or questions on this
2 item?

3 COMM. ALVAREZ: I have a comment. I would
4 ask that staff analyze this proposal for federal conformity
5 before we move forward with this decision.

6 COMM. THOMAS: I -- I guess since this was my
7 business and legal background I just -- I have some -- a
8 little bit of confusion that the corporate entity is, by
9 definition, a separate legal fiction, but a separate entity,
10 and then it seems like that's kind of merging the two. But
11 I'm prepared to proceed and support you on this, I just
12 would like to understand a little bit how that would work in
13 the context of what we'd be asking.

14 I've read the back, but it didn't have
15 anything that kind of addressed that.

16 CHAIR HUGHS: Uh-huh. So, in other words,
17 this would just clarify that they would not collect
18 unemployment benefits, because they would be able to make
19 that appropriate election where currently we had found
20 employers had fallen into the scenario where they're --
21 they're charged unemployment even though they would never
22 collect it for themselves under this provision. And I can
23 turn to it specific --

24 COMM. THOMAS: Yeah, I'm sorry. I could be
25 more specific. I think that it's -- the question to the

1 extent that this could create a -- a slippery slope or a
2 loophole to the context of the corporate entity as a
3 separate and distinct entity, and therefore treating them
4 consistently under -- under the law as opposed to merging
5 sole proprietorship in the context of a corporate entity.
6 That's all. It's just a -- a confusion in my mind and I'm
7 not sure that that's included. Maybe if -- if staff were to
8 address that per -- per Commissioner Alvarez that would help
9 me understand that -- that we understood we'd be asking the
10 legislature to do.

11 CHAIR HUGHS: Okay, so should we vote to
12 proceed with a proposal understanding that staff needs to
13 come back to us about federal conformity and any concerns,
14 or wait on this particular item and bring it up in January
15 after?

16 COMM. THOMAS: I'd like to wait. No, I like
17 what you just suggested.

18 CHAIR HUGHS: Okay.

19 COMM. THOMAS: That would -- that would --
20 that would address my concerns. It would slow us down, so
21 I'd be prepared to make a motion to approve this requested
22 legislative proposal from Commissioner Hughs consistent with
23 also receiving the request from Commissioner Alvarez and
24 also clarification, at least for me, on how this would
25 interplay with the corporate fiction context that I raised.

1 CHAIR HUGHS: I'll get back to you on that as
2 well. So thank you for that support. I will second that
3 motion.

4 COMM. ALVAREZ: So at this point I could not
5 support that and I ask that we table this.

6 CHAIR HUGHS: Okay, sounds like the majority
7 passes by a majority vote at this time to -- to consider the
8 proposal.

9 COMM. THOMAS: So I guess from a procedural
10 perspective that motion table -- that request to table is
11 technically a motion, so if it's not seconded it would fail?
12 Is that right general council?

13 GENERAL COUNCIL: That is correct.

14 COMM. THOMAS: Okay, then I do not -- I do
15 not provide a second to that motion.

16 CHAIR HUGHS: All right, and just to keep the
17 record clear, but there are two motions to move forward with
18 the proposal subject to the comments we've made on the
19 record. Right?

20 COMM. THOMAS: Right.

21 CHAIR HUGHS: Yeah.

22 COMM. THOMAS: Just procedurally we are
23 addressing the motion remand, which then would -- sorry, to
24 table, which would supersede the motion, for purposes of our
25 moving forward, would supersede the motion -- the underlying

1 motion. And so since that fails for a second, looking at
2 our general council, now we would have a vote on the
3 underlying motion, and that's what I'm supporting. I
4 seconded that, and if I'm -- if the vote's being called, I'm
5 voting in favor of that, is what I'm saying.

6 CHAIR HUGHS: Okay, thank you.

7 COMM. ALVAREZ: So for the record, just so
8 that I can get more information, like I said, I ask you --
9 that staff analyze and propose federal conformity before
10 I'll move forward. As of today I couldn't make a decision
11 on -- to support this.

12 COMM. THOMAS: And that was included in -- in
13 -- in my motion.

14 COMM. ALVAREZ: Yes.

15 COMM. THOMAS: But --

16 CHAIR HUGHS: (Indiscernible)

17 COMM. THOMAS: Okay.

18 COMM. ALVAREZ: Okay. Did you get that,
19 Michael, are we okay?

20 MR. BRITT: Yes, sir.

21 COMM. ALVAREZ: Okay.

22 MR. BRITT: Next, on page 6, is Chair Hughs's
23 proposal on improved overpayment recovery. Chair Hughs?

24 CHAIR HUGHS: Thank you. Maintaining the
25 status quo is wrong for various reasons. First, the law in

1 general disfavors allowing the retention in an undeserved
2 windfall at the expense of others. In this case employers
3 who must make up the loss to the UI Trust Fund in the form
4 of higher taxes.

5 Second, the current practice is fundamentally
6 unfair, because it allows some claimants who keep undeserved
7 benefits while others with an equal or greater need for
8 money do not get to keep overpaid benefits due simply to the
9 fact that TWC did not make the mistake in their favor.

10 Bless you.

11 Third, the current practice hits reimbursing
12 employers especially hard since nonprofit reimbursing
13 employers must reimburse the benefits paid out wrongfully.

14 Finally, requiring claimants to repay money
15 they should never have received in the first place is not a
16 financial injustice, since the overpayment effectively
17 represents a no-interest loan for an indefinite period of
18 time, and no onerous collection activities are ever used to
19 recover non-fraud overpayments.

20 Texas law should be changed to reflect that
21 new focus on overpayment recover, and should not allow any
22 exceptions to the recovery of overpayments.

23 Are there any comments on this item?

24 Commissioner Alvarez?

25 COMM. ALVAREZ: I have a comment. I think

1 the Commission should concentrate on preventing our mistakes
2 rather than finding someone else to bear the cost of the
3 mistake. If a mistake is solely the responsibility of the
4 Commission, then it is unfair to further burden the
5 unemployed individual who has acted in good faith. Sending
6 statements of overpayment to a claimant who has done nothing
7 wrong would cast the Commission in a poor light and would
8 result in unflattering stories.

9 CHAIR HUGHS: Commissioner Thomas?

10 COMM. THOMAS: I agree with Commissioner
11 Alvarez that the Commission should in all things endeavor to
12 avoid mistakes that might result in this. That having been
13 said, I move to accept Commissioner Hughs's second
14 legislative proposal.

15 CHAIR HUGHS: I second that motion. Motion
16 passes.

17 COMM. ALVAREZ: I'm not supporting it.

18 COMM. THOMAS: I -- I think, just for -- for
19 procedural purposes, I think that we have to call the vote
20 on each of these just to have that on the record.

21 CHAIR HUGHS: Sure, okay. We can do that.
22 We haven't in the past, but we can to make sure we have
23 everybody's vote.

24 COMM. THOMAS: That's it.

25 MR. BRITT: To be clear Chair Hughs,

1 Commissioner Thomas, you're both in favor of, Commissioner
2 Alvarez, you are -- you are opposed?

3 COMM. ALVAREZ: I am opposed to it, yes sir.

4 COMM. THOMAS: Correct, and I think this is
5 particularly important, as the General Council pointed out
6 in our last meeting, that just because a second is made to
7 be able to get the matter on the dais, but consideration
8 reserves and also preserves commissioners the ability to
9 vote in a different way. It didn't mean they necessarily
10 approved it. So I think for clarity we need to have that
11 vote, Chair Hughs.

12 CHAIR HUGHS: Okay.

13 MR. BRITT: Next, moving to Page 9, is Chair
14 Hughs's proposal regarding the clarification of Texas Payday
15 Law Deduction Provisions. Chair Hughs.

16 CHAIR HUGHS: This clarification would
17 benefit both employers and employees by simplifying
18 compliance with the law through incorporation of well-known
19 federal standards into the Texas definition of wages and
20 will help ensure that all federally-allowed deductions from
21 pay are legal in Texas. Any comments?

22 COMM. ALVAREZ: I have a comment. The Payday
23 Act and the Fair Labor Standards Act are not the same, but
24 there is no deeply problematic ambiguity in the ways these
25 pieces of legislation cross path.

1 The pay -- the way Payday Law works in Texas
2 already acknowledges federal law in an effective manner.
3 This proposal would not clarify so much as it would make it
4 easier for employers to make deductions without written
5 authorization obtained from the worker. This proposal does
6 not improve the functioning of the Texas Payday Law.

7 The proposal does not increase the likelihood
8 that employers can make the -- and seek to defend unilateral
9 deductions where they have -- where they should have instead
10 simply obtained a written authorization. For this reason, I
11 cannot support this proposal.

12 CHAIR HUGHS: All right, Commissioner Thomas?

13 COMM. THOMAS: I move to approve this
14 legislative recommendation from Commissioner Hughs.

15 CHAIR HUGHS: Commissioner Alvarez, your
16 vote?

17 COMM. ALVAREZ: So my vote is not to approve
18 it. Nay.

19 CHAIR HUGHS: And I second the motion.
20 Motion passes.

21 CHAIR HUGHS: And I vote in favor of
22 supporting in addition to making a motion. So, for the
23 record.

24 MR. BRITT: Next, on page 12, is Chair Hugh's
25 proposal regarding recognition of certain payrolling

1 situations. Chair Hughs?

2 CHAIR HUGHS: Thank you. Since the Federal
3 Unemployment Tax Law does not prohibit payrolling, and in
4 light of the benefiting convenience that the second type of
5 payrolling can bring to a group of related companies, it's
6 time to consider a change in the Texas law that would
7 recognize the second type of payrolling in Texas.

8 Florida, Georgia, Indiana, Iowa, Maine,
9 Mississippi, North Carolina and Tennessee all have statutes
10 adopting the federal law as expressed in 26 U.S.C. Section
11 3306(p). Of those states the Mississippi and Tennessee
12 statutes track the feudal language almost word for word.

13 Sorry. Is there any comments?

14 COMM. ALVAREZ: Chair Hughs, I have a
15 comment. I cannot support this proposal. This definition
16 of a common paymaster allows employers to choose the entity
17 they want to report as employer. This gives employers the
18 ability to evade their tax (indiscernible). Moreover, it
19 will cause confusion by staff and especially employees when
20 attempting to determine or name the last work on an
21 unemployment, or name the correct employer in a wage claim
22 because it separates payment for work performed from the
23 direction and the control of that work. For that reason, I
24 cannot support this proposal.

25 CHAIR HUGHS: All right. Commissioner

1 Thomas?

2 COMM. THOMAS: Ma'am. Since we do see this
3 issue come up in our cases not uncommonly, specifically --
4 including today -- who is the employer, I would like
5 analysis from staff on how that would -- the issue raised by
6 Commissioner Alvarez how that might play into what we're
7 currently doing.

8 However, I do believe that this is
9 appropriate to move forward, and I move to support
10 Commissioner -- Chair Hughs's legislative recommendation as
11 laid out with that request.

12 CHAIR HUGHS: Thank you. Commissioner
13 Alvarez?

14 COMM. ALVAREZ: My vote is nay.

15 CHAIR HUGHS: All right, and I second the
16 motion to support the legislative proposal. The motion
17 passes.

18 COMM. THOMAS: Well, I mean, let me get on
19 the record, judge. With that I vote affirmatively.

20 MR. BRITT: Yes, sir. This concludes Chair
21 Hughs's proposals. We'll now move to proposals from
22 Commissioner Alvarez. Beginning on page 16 is Commissioner
23 Alvarez's proposals regarding earning statement.

24 Commissioner Alvarez.

25 COMM. ALVAREZ: Thank you, Mark. Currently

1 Section 620.003 of the Texas Labor Code requires employers
2 to provide an earnings statement to employees. However, TWC
3 lacks the ability to enforce this section when an employee
4 is covered by FLSA. This proposal would move Section 62.003
5 to Chapter 61 and allow TWC to better enforce the provision
6 by providing employees with the right to receive an earning
7 statement this proposal would help employees know if they
8 are being paid correctly and could decrease confusion in
9 unnecessary wage claims.

10 This proposal should not create an undue
11 burden for employers because employers are already required
12 to maintain these types of records under FLSA, as well as
13 other state and federal laws.

14 CHAIR HUGHS: Thank you Commissioner Alvarez.
15 I'd like to put my comments on the record, if I may, before
16 turning it over to Commissioner Thomas.

17 While I understand the intent behind this
18 proposal, and I recognize that issuing earning statements is
19 a good and recommended practice, I can't support making it
20 mandator, since it would present a new stumbling block for
21 employers, at least to an additional way to be penalized.

22 Commissioner Thomas, do you have any
23 comments?

24 COMM. THOMAS: Oh, yeah. Thanks. I was just
25 trying to make sure you were --

1 CHAIR HUGHS: Yes.

2 COMM. THOMAS: I recognize the legislative
3 request from Commissioner Alvarez. I also recognize the
4 concern raised by Commissioner -- our Chair. I move to
5 adopt and approve the legislative recommendation from
6 Commissioner Alvarez as laid out.

7 CHAIR HUGHS: Is there a second?

8 COMM. ALVAREZ: I second that.

9 CHAIR HUGHS: All right, and I am against the
10 proposal. Thank you, but it passes.

11 COMM. THOMAS: So I vote in favor. I'm
12 assuming you're voting for your own?

13 COMM. ALVAREZ: Yes.

14 MR. BRITT: Next, on page 19, is Commissioner
15 Alvarez's proposal regarding enabling commission
16 adjudication of emergency evacuation discrimination
17 complaints. Commissioner Alvarez.

18 COMM. ALVAREZ: Thank you, Michael. In the
19 aftermath of Hurricane Harvey my office received calls from
20 employees who were discharged from evacuating. Current law
21 prohibits employers from discriminating against employees
22 who comply with public evacuation orders, but we were unable
23 to assist these employees, because the commission was not
24 given jurisdiction in evacuation discrimination complaints.
25 The current method of pursuing a claim in civil court is

1 burdensome to employees and employers. Filing claims with
2 the Civil Rights Division of the Texas Workforce Commission
3 should be more efficient and cost effective for the parties.

4 CHAIR HUGHS: My comments on this matter and
5 my vote is that I can't support the proposal because it
6 would add another way for employers to be claimed against.
7 It could result in employers spending time and money on
8 responding to legal actions, and it could result in new
9 penalties being levied on employers. I also note it's not a
10 proposal being brought forward from our Civil Rights
11 Division, which is fine, but it just further adds to my
12 thinking that this is not something that is necessary or
13 helpful to employers. Commissioner Thomas?

14 COMM. THOMAS: For -- For clarification,
15 since this is my first go-round, as I understand it, um,
16 that an agency program or department did not raise or bring
17 up--bring a legislative proposal has no bearing on the right
18 or ability or obligation of commissioners under our
19 obligation to move forward with it. Do I make that--is that--
20 do I understand that correctly?

21 CHAIR HUGHS: That's correct.

22 COMM. THOMAS: Okay, and it --

23 CHAIR HUGHS: As I said, which is fine, but
24 it - it just looked --

25 COMM. THOMAS: Well no, no, No. I just wanted

1 to understand. I wanted to be real -- this is --

2 CHAIR HUGHS: Uh-huh, that's right.

3 COMM. THOMAS: You know, this is important
4 and I -- I'm -- and I worked with Lowell. I took his place
5 in the Texas Department of Housing Community Affairs Board.
6 I trust him implicitly, and I'm just trying to understand
7 how this process works. Uh, so I'm just being real careful
8 this first time. So thank you.

9 Then with that, I would recognize the
10 concerns that Commissioner Hughs has made about this
11 proposal, and I will also proceed to move to adopt and
12 accept this legislative recommendation from Commissioner
13 Alvarez.

14 COMM. ALVAREZ: I'll second that.

15 CHAIR HUGHS: Okay, all in favor?

16 COMM. THOMAS: I.

17 CHAIR HUGHS: And I am opposed.

18 COMM. THOMAS: Thank you, Chair Hughs.

19 MR. BRITT: Next, on page 25, is Commissioner
20 Alvarez's proposal on misclassification. Commissioner
21 Alvarez.

22 COMM. ALVAREZ: Thank you, Michael.
23 Misclassification for law-abiding Texas employers, workers,
24 the government and taxpayers of this great of state of ours.
25 Texas employers who pay their taxes face unfair competition

1 in the marketplace by businesses who underbid and have
2 greater profit margins because they misclassify their
3 workers as independent contractors.

4 Workers are hurt because they are denied
5 access to benefits and protections such as minimum wage,
6 overtime, unemployment insurance, and social security, when
7 they are not classified properly.

8 Federal and state governments lose tax
9 revenue. Taxpayers are hurt because the burden is shifted
10 to them when these businesses fail to pay their taxes. My
11 proposal supports legitimate businesses by enacting
12 legislation that will help them stay in business and remain
13 profitable. It imposes a penalty on businesses who
14 misclassify and those penalties deposited into special
15 administration fund to be used in further identifying
16 investigation and preventing worker misclassification.

17 CHAIR HUGHES: My comments on this matter is
18 that I am unable to support it, because it makes no
19 allowance for first-time offenses or an employer's good-
20 faith belief that it is complying with the law. In
21 addition, the current law already provides a monetary
22 penalty for misclassification of workers and that is what
23 the late reporting and late payment interest and penalties
24 are all about. We do not need another penalty on top of the
25 ones we already have, what we need is better and more

1 uniform enforcement of the existing laws. Commissioner
2 Thomas.

3 COMM. THOMAS: Thank you. Commissioner
4 Alvarez, would you consider the exceptions—the first to
5 exceptions that Commissioner Hughs raised? Would that be
6 something that you had a chance to—I know you haven't had a
7 chance to see it or know that, but was that something you'd
8 consider? If you -- could you read those again for both of
9 us, please, Chair Hughs?

10 CHAIR HUGHS: Which one are you referring to?

11 COMM. THOMAS: The first two exception that
12 makes no exceptions for. I think first time offender or the
13 first two points.

14 COMM. ALVAREZ: Commissioner Thomas I would
15 agree that, the first two.

16 COMM. THOMAS: Okay.

17 COMM. ALVAREZ: I'd agree with that.

18 COMM. THOMAS: Okay. Then with that I would
19 like to move to approve the recommendation from the
20 commissioner representing labor with the two exceptions
21 identified by Commissioner Hughs.

22 COMM. ALVAREZ: And with that, Michael, I
23 would accept that and agree to that.

24 CHAIR HUGHS: All right, so all in favor.

25 COMM. THOMAS: Aye.

1 COMM. ALVAREZ: Aye.

2 COMM. ALVAREZ: I remain opposed. Thank you.

3 MR. BRITT: To be -- to be clear, the motion
4 passes with the two exceptions laid out, as moved by
5 Commissioner Thomas?

6 COMM. THOMAS: Correct. For the record
7 that's correct, Michael.

8 MR. BRITT: Thank you. Next, on page 29, is
9 Commissioner Alvarez's proposal regarding wage claims for
10 reimbursements. Commissioner Alvarez.

11 COMM. ALVAREZ: When an employer has agreed
12 to pay a certain work-related expense, or has demonstrated a
13 history of paying such expenses, then an employee should be
14 able to file a wage claim for these reimbursements. This
15 proposal would expand the definition of wages -- wages under
16 Section 61.001 to include such reimbursements, as the
17 proposed definition limits reimbursements to those -- those
18 the employers has agreed to pay through word or action there
19 should be limited opportunity for abuse, and employers are
20 left with the authority to determine what expenses they are
21 willing to cover.

22 CHAIR HUGHS: My comments on this matter are
23 that incorporating expense reimbursements into the
24 definition of wages for Texas Payday while wage claim
25 purposes would create an inconsistency with Texas and

1 federal income and payroll tax laws. In addition, it would
2 interfere with an employer's interpretation of its own
3 policies. Therefore, I do not support this proposal.

4 Commissioner Thomas.

5 COMM. THOMAS: Thank you. I move to approve
6 with a request that staff provide an analysis of the issue
7 raised by Chair Hughs.

8 CHAIR HUGHS: Okay, is there a second?

9 COMM. ALVAREZ: I'll second that.

10 CHAIR HUGHS: All in favor?

11 COMM. THOMAS: Aye.

12 CHAIR HUGHS: Commissioner Alvarez?

13 COMM. ALVAREZ: Aye.

14 CHAIR HUGHS: Okay, and I'll remain opposed.

15 The motion passes.

16 MR. BRITT: This concludes Commissioner
17 Alvarez's proposals. I will now move on to the agency
18 division proposals.

19 COMM. THOMAS: I have on, Michael. Sorry, it
20 just kind of popped up. Um, I applaud staff for all their
21 hard work and legislative proposals. While I arrived at the
22 agency a little too late to create a comprehensive set of
23 proposals as my colleagues have, and obviously you see my
24 effort to try to support my colleagues in their initiatives.
25 I would like to propose one change that relates to our

1 extremely important mission of supporting and encouraging
2 employment of individuals with disabilities in Texas with
3 the reminder that the agency, starting with Larry, asked me
4 to make VR a priority, and so that's happening in my office.

5 I understand TWC oversees the Work
6 Opportunity Tax Credit, which gives a federal tax credit to
7 employers who hire vocational rehabilitation referrals as
8 well as other target populations like veterans and
9 recipients of public benefits. We also oversee a State of
10 Texas tax refund which can be used by employers of TANF or
11 Medicaid recipients. I'm asking the staff to look into the
12 feasibility of amending the labor code to create a similar
13 tax refund for Texas employers who hire individuals with
14 disabilities.

15 Tom or Mike -- I don't know if Tom's in here.
16 Mike, for sure, please could you circle back with my team if
17 you have any questions about what we're looking for
18 recognizing that this is a super-tight time frame. Um, if
19 this kind of change is appropriate, we'll be asking for your
20 help in drafting -- drafting the proposal to bring it back
21 to a future commission meeting.

22 MR. BRITT: Yes, sir.

23 CHAIR HUGHS: Thank you, Commissioner
24 Alvarez, I think that the idea and the intent behind that is
25 great. I just need to look at the conformity issues and

1 implications for employers, but certainly anything we can do
2 to get more people with disabilities employed is something
3 that we're gonna support.

4 COMM. THOMAS: Absolutely. That's why I said
5 we're kicking it. We don't wanna loose the opportunity to -
6 to participate in this go around, but that's the inherent
7 request for Mike and his team to get us that kind of
8 information.

9 MR. BRITT: Yes, sir.

10 COMM. ALVAREZ: For the record, Michael, I'd
11 just like to -- I'd just like to applaud Commissioner
12 Thomas's efforts to accommodate and to look into something
13 having to do with these folks that have a disability and the
14 tax credit for employers. Think it's a great initiative,
15 and if we could have that as soon as possible with your help
16 we'd like to see something like that go forward.

17 MR. BRITT: Yes, sir.

18 CHAIR HUGHS: Okay, great. And with that
19 we'll move on to agency recommendations for proposed
20 legislation.

21 MR. BRITT: Yes, ma'am. Moving to page 30 --
22 32 in your packets, excuse me, is the Civil Rights Divisions
23 Proposals regarding Fair Housing Act amendments. This
24 proposal consists of three components which staff is
25 recommending as one piece of legislation. However, if you

1 would like to advance only certain provisions or advance
2 these as three separate pieces of legislation we can
3 certainly move forward per your direction.

4 This proposal seeks to amend the Texas
5 Property Code to add a provision that would stipulate that
6 if a conciliation agreement in a Fair Housing case was
7 breached the Director of the Civil Rights Division must
8 refer that case to the Office of Attorney General with the
9 recommendation for filing the civil action for the
10 enforcements of the term of the conciliation agreement.

11 This provision would mirror federal
12 regulations that direct the U.S. Department of Housing and
13 Urban Affairs to Refer Breach of Conciliation Cases to the
14 U.S. Attorney General.

15 Second, this proposal seeks to add exceptions
16 to exemptions under the Fair Housing Act under Section
17 301.041 of the Texas Property Code for sales and rentals
18 exemptions. This section provides two exemptions; the
19 single-family home exemption and the, quote, Mrs. Murphy
20 exemption.

21 There are exceptions to these exemptions in
22 federal law that are not present in state statute. State
23 law currently states that sub-chapter (b) of the Texas Fair
24 Housing Act does not apply to the single-family home and
25 Mrs. Murphy exemptions, so Chapter V contains several

1 issues some of which are clearly exceptions under the
2 federal law. The U.S. Department of Housing and Urban
3 Development notified TWC through letters in January and
4 September of this year that cases involving these issues
5 must be referred to HUD because the state law in this area
6 is not substantially equivalent to federal law.

7 HUD has also stated that TWC must address
8 these issues in state law before the agency's next
9 recertification with HUD. The final provision of this
10 proposal would amend the Texas Property Code to make it an
11 unlawful act to interfere, coerce, intimidate, threaten or
12 interfere with any person in the exercise of their fair
13 housing rights.

14 TWC currently has rules containing these
15 provisions along with retaliation and harassment, which
16 substantially mirror federal regulation. This addition of
17 the—the addition of this provision would align state statute
18 with the federal statute. Any questions?

19 CHAIR HUGHS: Thank you, Michael.
20 Commissioners, are there any questions or comments? Okay,
21 is there a motion?

22 COMM. THOMAS: I move to approve per staff
23 recommendation.

24 COMM. ALVAREZ: I agree on all three.

25 CHAIR HUGHS: And I support it as well. We

1 are unanimous.

2 MR. BRITT: Thank you. Next, on page 37, we
3 have the External Relations Division Proposal related to the
4 consolidation of TWC and our reporting requirements for
5 reports to the governor and the Texas legislature. This
6 proposal would seek to consolidate the reporting
7 requirements of several TWC program -- programs into the
8 agency's annual report.

9 This proposal only seeks to change the
10 reporting deadline for each report and stipulate that the
11 reports can be included in the TWC annual report. The
12 proposal does not seek to alter the reporting requirements
13 for any of these existing reports. The reports staff are
14 proposing be aligned are the TWC Annual Report, the Federal
15 Trade Adjustment Assistance Annual Report, the Texas Career
16 Opportunity Grant Program Annual Report, the College Credit
17 for Heroes Annual Report, the Skills Development Fund Annual
18 Report, the TWC Civil Rights Division Analysis of State
19 Agency Discrimination Complaints, and finally, the
20 Purchasing from People with Disabilities Annual Report. Are
21 there any questions?

22 CHAIR HUGHS: Commissioner Thomas, any
23 questions? Commissioner Alvarez?

24 COMM. ALVAREZ: Hold on. I am looking for
25 that.

1 CHAIR HUGHS: Okay. While Commissioner
2 Alvarez is looking up, I'm just gonna indicate I think this
3 is gonna save a lot of administrator time and trouble, so
4 I'm gonna support it. I wanna give him an opportunity.

5 COMM. ALVAREZ: If I may have a minute,
6 Michael.

7 MR. BRITT: Yes, sir.

8 COMM. THOMAS: Michael, while he's looking, I
9 just wanted to tell you. I really appreciated kinda your
10 sensitivities and your thoughtfulness in laying out all of
11 these in this process. It's really impressive my first time
12 around to sit through this and to see the level of
13 commitment the staff brought to this, to respect the
14 Commissioner's role and to also make sure that you briefed
15 us on issues that were important to the Commission
16 legislatively. Thank you so much for that.

17 MR. BRITT: Thank you, sir.

18 CHAIR HUGHS: Commissioner Alvarez, do you
19 have any comments or questions?

20 COMM. ALVAREZ: I have no object -- I have no
21 objections and will support this proposal.

22 CHAIR HUGHS: Okay, is there a motion?

23 COMM. THOMAS: I move to adopt, or accept,
24 staff's recommendation regarding the consolidation manual
25 reporting requirements legislation.

1 COMM. ALVAREZ: I'll second that.

2 CHAIR HUGHS: And we are unanimous. Thank
3 you.

4 MR. BRITT: Thank you. Next, on page 40 of
5 your packet, is the Regulatory Integrity Division Proposal
6 regarding Chapter 61, Review Remand Provision. This
7 proposal would create a provision allowing for a court to
8 remand a TWC decision issued under the Texas Payday Law
9 which is on judicial review back to TWC for further
10 proceedings in cases where TWC did not address the merits of
11 the case during its review.

12 For instance, this would be cases where TWC
13 ruled it did not have jurisdiction over the case during its
14 original adjudication. Do you have any questions?

15 CHAIR HUGHS: Comments or questions?

16 COMM. ALVAREZ: I have a comment.

17 MR. BRITT: Yes, sir.

18 COMM. ALVAREZ: I agree that the Commission
19 is in the best position to conduct an investigation and
20 issue in the determination regarding the merits of -- of a
21 wage claim. The administrative process is faster and more
22 cost effective for the parties. I think it is appropriate
23 to have a provision in Chapter 61 that allows courts to
24 remand cases the Commission -- when the Commission has not
25 made a determination on the merits.

1 CHAIR HUGHS: I agree a permanent
2 administrative and judicial economy certainly streamlines
3 the administration of the system, so I will ask if there is
4 a vote on the matter.

5 COMM. THOMAS: Ditto, comments, motion to
6 approve.

7 COMM. ALVAREZ: I'll second that.

8 CHAIR HUGHS: We are unanimous.

9 MR. BRITT: Thank you.

10 CHAIR HUGHS: The motion passes.

11 MR. BRITT: Okay. Next moving to page 42 we
12 have the written proposal regarding redetermination by
13 examiner. This proposal would create a provision in the --
14 in Chapter 61 of the Labor Code to allow an examiner to
15 reconsider and redetermine and preliminary wage
16 determination order within the time period before the order
17 becomes final. This provision would be similar to
18 provisions in the Texas Labor Code for redeterminations of
19 unemployment insurance determinations. Do you have any
20 questions?

21 CHAIR HUGHS: Commissioners, any questions?

22 COMM. ALVAREZ: I have a comment. I think
23 that it is beneficial to both parties to correct mistakes as
24 soon as possible and I agree that a provision allowing
25 redeterminations within statutory appeal period is

1 appropriate.

2 CHAIR HUGHS: Is there a motion?

3 COMM. THOMAS: Motion to approve the
4 Redetermination By Examiner legislative proposal by staff.

5 COMM. ALVAREZ: I'll second that.

6 CHAIR HUGHS: And I support it as well. We
7 are unanimous. The motion passes.

8 MR. BRITT: Thank you. On page 44 of your
9 packet is the written proposal to remove the
10 unconstitutional provision of the Texas Payday Law. Texas
11 Labor Code Section 61.063, states that a party required to
12 pay by an order under the Texas Payday Law must, within 30
13 days, pay the amount to TWC and if the party files a
14 petition for judicial review the party must send the amount
15 of wages ordered to TWC for deposit in an interesting --
16 interest-bearing Escrow account unless the party files an
17 affidavit amenability to pay with the court and that after
18 judicial review is complete any wages previously ordered not
19 owed by the judicial ruling plus interest, is to be returned
20 to the party.

21 In Hawk Leasing Company versus Texas
22 Workforce Commission this provision was ruled
23 unconstitutional. As a result, this provision of law is not
24 enforced by TWC or the Office of Attorney General. Staff
25 proposes removing this unconstitutional provision from law.

1 Any questions?

2 COMM. ALVAREZ: So moved.

3 COMM. THOMAS: I'll second that.

4 CHAIR HUGHS: And I agree. We are unanimous.

5 The motion to support this proposed legislation passes.

6 MR. BRITT: Thank you. On Page 46 we have
7 the written proposal for wage claim as an exclusive remedy.

8 This proposal would amend the Texas Labor
9 Code to state that a wage claim filed under Chapter 61 would
10 be the exclusive elected remedy for the recovery of wages
11 claimed against the employer named. This provision would
12 waive a claimant's cause of action at common law for those
13 wages. This provision would not remove the claimant's right
14 to judicial review once TWC has issued a determination and
15 it would not apply in cases where TWC determines that it
16 does not have jurisdiction over a claim for reasons other
17 than in a timely appeal. Do you have any questions?

18 CHAIR HUGHS: Any questions or comments?

19 COMM. ALVAREZ: I have a comment.

20 CHAIR HUGHS: Okay.

21 COMM. ALVAREZ: If I may, I cannot support
22 this proposal. I see no benefit or improvement in the
23 Commission's service to workers that would come from forcing
24 a choice between pursuing their Payday rights with the
25 Commission or doing it so in a court competent jurisdiction.

1 The expenditures of the Commission resources can be affected
2 within the current wage-claim system. The proposal seems
3 more likely to cause confusion and to thereby constitute
4 unnecessary hurdle.

5 CHAIR HUGHS: Commissioner Thomas?

6 COMM. THOMAS: Move to approve per staff
7 recommendations.

8 CHAIR HUGHS: And I second that motion. All
9 in favor? Aye.

10 COMM. THOMAS: Aye.

11 COMM. ALVAREZ: Nay.

12 CHAIR HUGHS: Opposed, all right, the motion
13 passes.

14 MR. BRITT: Last but not least, on page 48,
15 is the written proposal related to wage claim
16 confidentiality. This proposal would amend the Texas Payday
17 Law to create a provision to provide personally identifiable
18 wage-claim data is not public information for the purposes
19 of Chapter 552 of the Texas Government Code. The proposal
20 would further seek to provide TWC with rulemaking authority
21 governing the confidentiality, custody, use, preservation
22 and disclosure of personally identifiable wage-claim data.
23 This provision would be similar to the provisions governing
24 the confidentiality of UI Claim Information contained in the
25 Texas Unemployment Compensation Act. Do you have any

1 questions?

2 CHAIR HUGHS: Thank you. Commissioner
3 Alvarez do you have any questions or comments?

4 COMM. ALVAREZ: Yes, I do. I cannot support
5 this proposal. Combating wage debt is a difficult
6 proposition. There are municipalities that have sought to
7 create databases used to name and list employers that do not
8 pay their employees the wages they are owed. These wage
9 theft databases offer warnings to other workers and can be
10 used to assist in denying public contracts to those
11 employers that do not pay for labor that they use.

12 Access to Commission records lends valuable
13 support to the creation of such databases. I am concerned
14 that the confidentiality put forth in this proposal shields
15 nonpaying employers from their efforts to hold wage theft
16 accountable. For these reasons, again, I cannot support
17 this proposal.

18 CHAIR HUGHS: Chair Thomas, do you have any
19 questions or comments?

20 COMM. THOMAS: Yeah my -- with -- based upon
21 Commissioner Alvarez's concerns do we have any, or our
22 general counsel, do we have any -- should this be passed by
23 the legislature and this would then be -- go to a rule-
24 making process would there be any way for us to kind of
25 protect against some of the concerns or issues that were

1 raised by Commissioner Alvarez? I'm sorry, whoever's --

2 MR. BRITT: I'm gonna ask Chuck Ross from RID
3 to come up and address the questions.

4 COMM. THOMAS: Sorry. Thanks. I always look
5 to our general counsel, but whoever's appropriate. I mean,
6 I was, I look to you as -- I don't know who to answer it.

7 MR. ROSS: So, good morning commissioners,
8 Mr. Serna. For the record, I'm Chuck Ross, Regulatory
9 Integrity Division, not the general counsel.

10 COMM. THOMAS: He says happily.

11 MR. ROSS: So to Commissioner Alvarez's
12 point: Yes, in -- there are two municipal ordinances that
13 we're aware of. One in Houston that actually has a wage
14 theft database and one in El Paso that does not currently
15 have a wage theft database.

16 Staff's perception with this proposal would
17 be that information would be confidential for the purposes
18 of filing a wage claim, but for the purposes of
19 administering oversight of the act and for violations
20 thereto that -- that such information would -- would be
21 available to support the -- the databases that Commissioner
22 Alvarez has -- has alluded to.

23 We believe that rules could be promulgated
24 that would get us to both of those points.

25 COMM. THOMAS: And is there a clarity, Chuck,

1 from your part that should the legislature support this,
2 should we vote to move in on that that would be a priority
3 for your department to ensure we take care of the needs that
4 the agency has and address concerns that would be
5 appropriate from the -- raised from the dais?

6 MR. ROSS: Yes, sir. Absolutely.

7 COMM. THOMAS: All right then that -- I move
8 to approve per staff's recommendation with Chuck's
9 clarification.

10 CHAIR HUGHS: All right, and I second that
11 motion. Commissioner Alvarez?

12 COMM. ALVAREZ: And for the record I'm not
13 supporting it at this time.

14 CHAIR HUGHS: We have a majority vote and the
15 proposal passes. Thank you.

16 MR. BRITT: Thank you, thank you very much.
17 That concludes my comments on this item.

18 CHAIR HUGHS: Thank you, MR. Britt.

19 AGENDA ITEM NO. 25

20 CHAIR HUGHS: Item -- Item 25, Discussion,
21 Consideration and Possible Action Regarding Approval of
22 Local Workforce Development Board Nominees. Cameron Bell.

23 MR. BELL: Good morning Madam Chair,
24 commissioners, Mr. Serna. Cameron Bell, Workforce
25 Development Division. Before you for consideration and

1 approval are Workforce Development Board nominations for
2 Workforce Solutions Alamo, Capital Area and Texoma.

3 Yesterday we received notification that
4 nominee number two for Workforce Solutions Alamo withdrew
5 his name for consideration for board membership. Therefore,
6 staff now recommends that nominee number one from Workforce
7 Solutions Alamo and all nomination -- nominees from
8 Workforce Solutions Capital Area and Texoma be approved.

9 COMM. THOMAS: So moved.

10 COMM. ALVAREZ: Second that.

11 CHAIR HUGHS: All right, we are unanimous
12 with that clarification. Thank you.

13 AGENDA ITEM NO. 26

14 CHAIR HUGHS: That gets us now to Item 26,
15 Discussion, Consideration and Possible Action Regarding
16 Statewide Initiatives Funded with Workforce Investment
17 Opportunity Act (WIOA), Temporary Assistance for Needy
18 Families, Adult Education and Literacy, Child Care or Other
19 State Level Funds, Supporting Veterans Through a Community
20 Based Network of Services and Supports.

21 MS. VALLEZ: Good morning. So, for the
22 record. I'm not Jason Vaden.

23 MS. VALLEZ: Carrie Vallez (ph) from
24 Workforce Development Division. Good morning Chair Hughs,
25 commissioners, Mr. Serna.

1 There are approximately 1.7-million veterans
2 in Texas and that number grows each year as either 20,000
3 veterans stay in or return to Texas within their first year
4 of leaving the military. A great number of most community-
5 based and veteran service organizations provide services and
6 support to those veterans, but there is a recognition that
7 providers need to work in coordination to ensure veterans
8 and their families are aware of and are -- have access to
9 all of these services.

10 One way to accomplish this coordination is to
11 the establishment of the network of organizations with the
12 community that captures for each veteran safety support and
13 assistant services received, referrals made, and service
14 available in a single shared referral system.

15 This morning staff seeks guidance in awarding
16 our multi-year grant for the creation of a veteran's network
17 that will be established, supported and expanded through the
18 work of Veteran's Coordinators up to \$4-million in WIOA
19 state-wide funds will be used to secure Veteran's
20 Coordinators via the request for applications process. This
21 concludes my remarks. I'm happy to answer any questions.

22 CHAIR HUGHS: Thank you, Carrie. Before we
23 get to questions or comments from the dais I understand, MR.
24 Trobman, that we might have had public comment on this item?

25 MR. TROBMAN: Yes, we do. Yes. We have

1 James Brennan.

2 CHAIR HUGHS: Good morning, MR. Brennan.
3 Thank you for your patience this morning. We had a very
4 long docket and I know you've been waiting patiently since
5 we started at 9:00. If you'll please state your name on the
6 record and you could limit your comments to three minutes
7 for public comment, we appreciate it.

8 MR. BRENNAN: Good morning Chair Hughs,
9 member -- Commissioners Thomas, Alvarez, Mr. Serna. My name
10 is Jim Brennan, Legislative Director for the Texas Coalition
11 of Veteran's Organizations.

12 The Coalition has about 36 veteran service
13 organizations that are members representing 600,000 of the
14 1.7-million veterans in the State of Texas. We have been an
15 advocate for -- or veteran's issues at the legislature for
16 the past 25 years. And I'm here this morning to comment on
17 this agenda item. Although this is not a legislative issue
18 at this time, we believe engaging on the issue now could
19 help draft a comprehensive lore of pity.

20 We believe a properly designed and executed
21 program could be a great service for veterans. Also, our
22 experience tells us a flawed program can become a burden and
23 financial drain on state resources.

24 I'm here to urge that RFP that may be issued,
25 including the scoring matrix for award close examination and

1 review of the software be utilized. Specifically,
2 proprietary versus open-source software.

3 I frequently use the analogy when we look at
4 these things of buying an airplane. And it's not the cost
5 to buy the airplane, it's the ongoing operating cost that
6 are the issue in making a determination as to what's the
7 best value.

8 If a program -- if a program is adopted, it
9 will have to scale to meet demand and open-source usually is
10 the least costly software to scale a program.

11 Our hope is that a successful program will
12 measure outcomes, and not activity. I can't emphasize that
13 enough. Outcomes measurements will build a invaluable
14 database of information about service providers and help us
15 identify those organizations that produce positive outcomes.

16 Texas Coalition of Veteran's Organizations is
17 a resource for veterans, policy makers and administrators in
18 state government, and stands ready to help create a
19 meaningful and impactful program.

20 Some of the other issues that I think have to
21 be considered when we look at this, or for consideration in
22 drafting an RP, is how is personal data that is gathered
23 protected? Will the program administrator be prohibited
24 from monetizing the data that is gathered?

25 Services involving healthcare have particular

1 privacy concerns. We are concerned that any funds that are
2 allocated are not at the expense of current veteran's
3 programs at the Texas Workforce Commission. Those are my
4 comments and I'll be happy to take any questions.

5 CHAIR HUGHS: Thank you, MR. Brennan. Thank
6 you for your comments. We appreciate you sharing them at
7 this time.

8 COMM. ALVAREZ: Chair, if I may? Thank you,
9 MR. Brennan, for your comments.

10 MR. BRENNAN: Yep.

11 COMM. ALVAREZ: I look forward to seeing you
12 in Texas with the local VSO.

13 MR. BRENNAN: You will.

14 COMM. ALVAREZ: Continue the great work. The
15 only thing that I ask in addition to what you said was that
16 the groups also reach out to Helmets to Hardhats in this
17 particular endeavor.

18 CHAIR HUGHS: Okay. Commissioner Thomas, do
19 you have any comments or questions?

20 COMM. THOMAS: Ready to go.

21 CHAIR HUGHS: All right, so is there a motion
22 on this? Excuse me, Carrie, did you want to along to it?

23 MS. VALLEZ: No, ma'am, that's it.

24 CHAIR HUGHS: Okay. Do we have a motion?

25 COMM. ALVAREZ: I move that we approve using

1 the 4-million in WIOA statewide and create a veteran's
2 network supported through the use of Veteran's Coordinators.
3 As such coordinators will be secured through a request for
4 application process.

5 COMM. THOMAS: Second.

6 CHAIR HUGHS: Okay, the motion passes, we are
7 unanimous. Thank you.

8 MS. VALLEZ: Thank you.

9 COMM. ALVAREZ: Thank you, MR. Brennan.

10 AGENDA ITEM NO. 27

11 CHAIR HUGHS: Item 27, Understand we -- there
12 is nothing for Item 27.

13 AGENDA ITEM NO. 28

14 CHAIR HUGHS: Are there any updates Are there
15 any Updates Regarding Enacted, Purposed or Considered
16 Federal or State Legislation?

17 MR. BRITT: Good morning again Chair Hughs,
18 Commissioner Alvarez, Commissioner Thomas. For the record,
19 Michael Britt, Governmental Relations. And I promise I'll
20 be quicker this time.

21 Congress continues to work on 5-billion in
22 funding to prevent a partial government shut-down this
23 Friday, December 21st. TWC's funding for the remainder of
24 this fiscal year was passed in September under HR 6157. The
25 U.S. House and Senate are still considering options for TANF

1 reauthorization. At this time it is expected at a
2 continuation of -- that TANF will be included in the measure
3 that extends government funding. This concludes my remarks.
4 I'm happy to answer any questions.

5 CHAIR HUGHS: Any questions? All right,
6 Thank you, Michael.

7 AGENDA ITEM NO. 29

8 CHAIR HUGHS: Item 29, Ed, are there any
9 updates?

10 MR. SERNA: No, ma'am. No updates other than
11 to wish the commissioners and the commission staff and Happy
12 Holidays, Merry Christmas and Happy New Year.

13 CHAIR HUGHS: Wonderful. Thank you.

14 COMM. THOMAS: Ed, I'd like to --

15 CHAIR HUGHS: Go ahead.

16 COMM. THOMAS: I'd like to follow up kinda
17 the same deal related to our bureau programs. Got a really
18 great idea from Commissioner Alvarez who I'm told visited a
19 Workforce Solutions office that had a decal that certified
20 their office as being committed to employing individuals
21 with disabilities. I think that's a good idea.

22 MR. SERNA: Yes, sir.

23 COMM. THOMAS: I'd like to ask your help in
24 taking the lead on and assigning whatever staff's
25 appropriate to look into a state-wide program of possibly

1 similar to We Hire Vets that recognizes employers that take
2 advantage of the amazing skills and talents of our
3 differently abled workforce. Is that something that you'd
4 be able to help -- help me with?

5 MR. SERNA: Yes, sir. We can look into that.

6 COMM. THOMAS: Thank you. That's all I had
7 on that.

8 COMM. ALVAREZ: Well I would like to take
9 this opportunity to wish every one of you Merry Christmas.
10 Certainly, it's been -- it's been a pleasure to work with
11 you in 2018, but I just wanted to acknowledge I can't wait
12 to see you guys in January, and eat till you're content.

13 CHAIR HUGHS: And at this time, I would ask
14 permission to adjourn, but I understand there may have been
15 a request to enter into executive session, so I just wanted
16 to confirm before we move to adjourn, whether that was still
17 --

18 COMM. THOMAS: Yes. Motion, yep.

19 CHAIR HUGHS: Okay, then. If we could please
20 -- at this time the Commission will break to enter into
21 executive session to discuss the appointment, employment,
22 evaluation, reassignment, duties, discipline or dismissal of
23 the executive director, internal auditor, executive staff or
24 other personnel pursuant to Texas Government Code Section
25 551.074(a)1.

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AGENDA ITEM NO. 30

CHAIR HUGHS: Okay, the time is now 12:30, we have concluded our executive session. Is there a motion to adjourn?

COMM. THOMAS: So moved.

COMM. ALVAREZ: Second.

CHAIR HUGHS: Okay, we are adjourned. Thank you and Merry Christmas to everyone. Happy Holidays.

(Proceedings concluded at 12:30:12 p.m.)

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C E R T I F I C A T E

STATE OF TEXAS)

COUNTY OF HARRIS)

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 31st day of December, 2018.

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

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