



**MEETING OF THE
TEXAS WORKFORCE COMMISSION**

June 23, 2020

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TUESDAY, JUNE 23, 2020

CHAIRMAN DANIEL: The meeting is called to order. Mr. Trobman, has anyone signed up for public [unintelligible]? Thank you very much. Good morning, Ms. Miller.

CHAIRMAN DANIEL: Thank you. This brings us to the end of Agenda Items Three through Seven. Let's pause for a few moments to reset for the rest of the meeting. The meeting is back in session. This is Agenda Item Eight, discussion, consideration and possible action regarding rules pertaining to the Emergency Unemployment Insurance Stabilization and Access Act of 2020 and the Coronavirus Aid, Relief and Economic Security Act (40 Texas Administrative Code Chapter 815).

JASON STALINSKY: Good morning, Chairman Daniel, Commissioner Alvarez, Commissioner Demerson and Mr. Serna. For the record, I'm Jason Stalinsky with Policy Planning and Prosecutions. For you today is a policy concept to amend the Chapter 815 unemployment insurance rules in response to Covid-19. On April 14th and 28th of this year the commission undertook emergency rulemaking--

CHAIRMAN DANIEL: Jason.

JASON STALINSKY: Yes.

CHAIRMAN DANIEL: Hold on just a second.

JASON STALINSKY: Sure.

1 CHAIRMAN DANIEL: You guys got any more
2 volume over there? Okay.

3 JASON STALINSKY: All right. On April 14th
4 and 28th of this year the commission undertook emergency
5 rulemaking to address both the Emergency Unemployment Insurance
6 Stabilization and Access Act or UISA and the CARES Act. The
7 emergency rules were founded to be conforming by USDOL and
8 continue to be necessary. However, without commission action
9 these emergency rules will expire before permanent rulemaking
10 can be achieved. Therefore, to allow adequate time for
11 permanent rulemaking, staff requests the commission approve the
12 renewal of both sets of emergency rules for 60 days and direct
13 staff to file appropriate notices of these actions. Staff also
14 requests the commission to vote to withdraw both sets of
15 emergency rules at the time the permanent rules take effect and
16 direct staff to take appropriate action to effectuate this vote.
17 Staff also seeks approval to move forward developing the
18 proposed permanent rules. These rules would entail making the
19 emergency rules permanent with a few minor modifications to make
20 them more generally applicable and easier to understand. These
21 rules would additionally create a new subchapter G for the CARES
22 Act and address the areas of appeals, overpayments and fraud.
23 As the result, today's staff seeks two votes. The first is for
24 the commission to vote to renew both sets of emergency rules for
25 60 days to withdraw both sets of emergency rules at the time

1 permanent rules take effect and direct staff to take appropriate
2 action to effectuate this vote. The second is approval to move
3 forward with developing the proposed rules as outlined by the
4 policy concept. With that, I am available for any questions you
5 may have.

6 CHAIRMAN DANIEL: Thoughts or questions?

7 JULIAN ALVAREZ III: No questions on either
8 on.

9 AARON DEMERSON: None here.

10 CHAIRMAN DANIEL: Is there a motion?

11 JULIAN ALVAREZ III: Chairman, on the first
12 one I move that we renew both sets of emergency rules for 60
13 days and withdraw both sets of emergency rules when the
14 permanent rules take effect. I also ask staff to file
15 appropriate notices and take necessary actions to effectuate
16 this vote.

17 AARON DEMERSON: Second the motion.

18 CHAIRMAN DANIEL: Moved and seconded.
19 We're unanimous.

20 JULIAN ALVAREZ III: Chairman, for the
21 second one I move that we approve the staff to develop proposed
22 rules as outlined in the policy concept as discussed.

23 AARON DEMERSON: Second.

24 CHAIRMAN DANIEL: It's been moved and
25 seconded. We're unanimous. Thank you.

1 JASON STALINSKY: Thank you very much,
2 commissioners.

3 CHAIRMAN DANIEL: This is Agenda Item Nine,
4 discussion, consideration and possible action on petitions for
5 emergency adoption of unemployment insurance rules on suitable
6 work and good cause for leaving work.

7 CARRIE MILLS: Good morning, Chairman
8 Daniel, Commissioner Alvarez, Commissioner Demerson and Mr.
9 Serna. I'm Carrie Mills with the Office of General Counsel.
10 Two petitions for adoption of emergency unemployment rules were
11 received by the Office of General Counsel on April 29th, 2020 in
12 response to Covid-19. The petitions were submitted by
13 interested parties under Title 40, Section 800.254 of the Texas
14 Administrative Code. One petition was submitted by the United
15 Steel Workers and the other was submitted by the Center for
16 Public Policy Priorities and 10 other entities. The deadline
17 for the commission's final decision on the petition is June 28,
18 2020. Today Jonathan Lewis from the Center for Public Policy
19 Priorities and Rene Lara from Texas AFL-CIO will present the
20 petitions which are substantively identical. When I announce
21 your name, please introduce yourself and who you represent for
22 the record. Jonathan Lewis.

23 JONATHAN LEWIS: Yes. Hello, my name is
24 Jonathan Lewis. I'm a senior policy analyst at Every Texan,
25 which was formerly the Center for Public Policy Priorities. And

1 Every Texan is an organization that advocates for policies that
2 will allow all Texans to thrive. I wanted to thank you for the
3 opportunity to speak today on these concerns. We think these
4 are very important issues that are impacting tons of Texans
5 across the state. So, the policies of TWC always play a critical
6 role in the stability of hardworking Texans across the state.
7 However, in these times policies of TWC become exponentially
8 more critical, not only because of the impact on households, but
9 for the recovery of our state's economy as a whole. As you saw
10 with last week's state unemployment numbers Texas is still
11 experiencing record high numbers of unemployment at 12%. Just
12 yesterday Greg Abbott held a press conference addressing the
13 concerning rise in Covid-19 cases where he stressed the
14 importance of distancing, wearing masks and other safety
15 precautions. These factors make the policies of this agency at
16 this time more critical than ever. So, I wanted to first thank
17 you, the staff at TWC and the commissioners, for providing more
18 clear guidance for workers on June 16th regarding who's exempt
19 from the return to work policies. And Texans need this kind of
20 clarity to understand these complicated policies. However, we
21 still have concerns from our petition that we feel have not been
22 addressed. So, these include workplace safety concerns, and
23 this is not just a concern for those that are higher risk due to
24 age or other health factors. But we know that as we try to get
25 businesses back open we must keep the health and safety of both

1 workers and customers at the forefront of our policymaking or
2 risk being worse off in our recovery efforts. Even if in
3 practice TWC would allow for a worker to not return to work
4 where a business is not following local jurisdiction mask
5 guidelines or other safety measures, not having clear guidelines
6 will leave many feeling forced to decide between their health
7 and safety or their paycheck. TWC staff response to our
8 concerns about workplace safety mentioned that the governor has
9 adequately addressed what workplace safety should look like in
10 his report to open Texas. However, the guidelines read as
11 recommendations and do give Texans a clear sense of what is
12 acceptable in regards to returning to work. Again, we urge the
13 TWC to make it clear to claimants through an official rule or at
14 a minimum clear language on TWC's website that they should not
15 feel forced into an unsafe work environment. This policy's only
16 going to cause the spread of the virus to get exponentially
17 worse. The second piece I wanted to address here, read in our
18 petition, was around voluntary quit. Currently, claimants are
19 only covered to voluntarily leave a job due to the health of
20 themselves or a minor child. These limited circumstances do not
21 adequately cover the needs of households, especially during this
22 pandemic. Workers still need to be able to care for their
23 parents, adult children, partners or others who they have main
24 caregiving duties for. TWC's past recommendation mentioned that
25 the Pandemic Unemployment Assistance is available for those who

1 voluntarily quit for reasons that fall offside those that are
2 currently allowed by the state traditional UI program. However,
3 PUA has lower benefits than the state UI and those working in
4 jobs that pay into the state UI trust fund should be eligible
5 for that higher benefit. Additionally, relying on PUA to cover
6 those that fall outside of those reasons for state voluntary
7 quit, we have concerns that PUA is not actually being accessed
8 widely in Texas as we would expect it to be. The Department of
9 Labor's latest numbers show that PUA continued cases in Texas
10 was around \$184,000 for the week ending in May 30th while other
11 states with smaller general populations have significantly
12 higher numbers of PUA. For example, Michigan's continued case
13 load number for the same time period was over a million. So, we
14 have severe concerns about, you know, the accessibility of the
15 program in general, but especially for those that have to
16 voluntary quit and may be relying on this if TWC does not make a
17 change to these rules. So, we would ask you to really
18 reconsider, you know, this critical benefit and why people are
19 not receiving PUA, you know, when they may be eligible for it.
20 And also consider those that have been paying into the state UI
21 system should also be eligible for the benefits that are
22 provided in that system. So, in closing I would ask you to
23 consider the impact that these changes have on households that
24 have been struggling to cover basic needs during this time. If
25 we do not ensure that Texans have these resources, we risk

1 slowing our state's economic recovery. I know TWC may not see
2 itself an agency making public health policy, but these rules
3 around worker safety are critical to our response to Covid-19
4 and slowing its spread. I would like to make these changes to
5 really improve and ensure that the livelihood of Texas is taken
6 care of in these critical times. So again, thank you for the
7 opportunity to speak and I really hope that you would consider
8 our request in the petition.

9 CARRIE MILLS: Rene Lara?

10 RENE LARA: Hello, my name is Rene Lara
11 with the Texas AFL-CIO. I'm the legislative director. And I
12 want to first thank the commissioners, Chairman Daniel,
13 Commissioner Alvarez and Demerson, Mr. Serna for the opportunity
14 to provide their testimony virtually, and we will follow up with
15 a written copy as well. But just to summarize the points we
16 want to make for those of us who are not familiar with the AFL-
17 CIO we are federation of labor unions, affiliated labor unions
18 around the state in both the public sector and the private
19 sector. From the very beginning of the pandemic, Covid-19 and
20 the ensuing mass layoffs and furloughs, the AFL-CIO we've
21 advocated for worker safety and the continuance of unemployment
22 benefits. We want to thank the commission for pushing out the
23 billions of dollars in aid to millions of people and the
24 families that they support and especially the staff at the
25 commission working so hard to do this. And we know there are

1 many problems that we need to address, a lot of people who could
2 get through, et cetera. And of course, that's an ongoing story.
3 But our position is that Texans should not feel pressured into
4 working in unsafe conditions due to exposure to the deadly virus
5 Covid-19. We signed up in support of the proposed rules that
6 Jonathan just mentioned that you all laid out under Item Number
7 Nine for suitable work and good cause for leaving work. The
8 proposed rules outline high risk factors for which an individual
9 may refuse otherwise suitable work. And these factors that are
10 proposed include failure of the employer to provide safe working
11 conditions. And I think that's kind of the focal point we're,
12 you know, talking about today. Because we are aware that you've
13 issued guidelines last week officially. Although they are not
14 rules, they all do include high risk factors as well for which
15 claimants may refuse suitable work. And you sent out an email
16 following that as well. I think it came out yesterday. Our
17 position is that the guidelines should be adopted as official
18 rules and that they should acknowledge that every Texas worker
19 faces a high risk of contracting the virus if their workplace
20 fails to provide adequate supplies and safe facilities and
21 working conditions, specifically such as face masks and physical
22 distancing. In fact, now that face masks may be required in
23 places of business with the governor's blessing, the commission
24 rules we feel ought to acknowledge their importance in meeting
25 the safety standards for returning to suitable work. We also

1 support the good cause for voluntarily leaving work provisions
2 in the proposed rules, but I would highlight that these also
3 include the failure of the employer to provide a safe workplace
4 for the employee. Jonathan also mentioned, and we also
5 emphasized, that this has become of urgent concern because of
6 the millions of Texans impacted. And I would add that it is
7 also an urgent concern because the commission has declared that
8 you plan to reinstitute work search rules to require claimants
9 to be able and available for suitable work. We strongly urge
10 you not to execute your plan to reinstitute the work search
11 requirement. We Texans will work the first chance they get if
12 they feel safe. We know this because we were at full employment
13 right before the pandemic hit at 3.5% in February. And so, we
14 feel that it's a silly burden to impose on the employees and the
15 employers for people to have to comply with this work search
16 requirement. And finally, in regards to the 530,000 or so
17 positions that are set to be available to be filled, we have a
18 question. Has this number been audited in any way? Are all of
19 these positions truly currently still available? And even if
20 they are, we Texans have suffered 2.5 million job losses, and so
21 this could mean that at least two million unemployed Texans will
22 be undergoing unnecessary work searches. And so, we hope that
23 you don't move forward with that requirement. Thank you for
24 your consideration and listening to our concerns. And I'm
25 willing to answer any questions you may have.

1 CARRIE MILLS: Now Chris Oakley, Director
2 of Unemployment Insurance Policy, will present the Unemployment
3 Insurance Division's recommendation on the petition.

4 CHRIS OAKLEY: Good morning, Chairman,
5 commissioners, Mr. Serna. Can you hear me?

6 AARON DEMERSON: Mic on?

7 CHRIS OAKLEY: Should be on. Can you hear
8 me okay? I'll speak a little bit louder. The petitions in this
9 matter were forwarded to the UI Division on April 29, 2000
10 Because the petitions are substantially identical, they have
11 been addressed together. The petitioners request two rules be
12 approved on an emergency basis, one that adds additional Covid-
13 19 related scenarios to the suitable work factors listed in the
14 Texas Unemployment Compensation Act, Section 207.008, and
15 another that defines and expands good cause under the voluntary
16 leaving statute of 207.045. The petitioners primarily base the
17 request on the need to provide clarity to Texans during the
18 Covid-19 pandemic. Although the UI Division shares the general
19 concern of the petitioners, we believe that current state law,
20 rules and precedents when combined with the recently enacted
21 federal programs sufficiently provide that clarity without need
22 for additional rulemaking. In response to the requested
23 suitable work rule, the UI Division stresses that each claim for
24 unemployment benefits is evaluated on a case by case basis.
25 However, within the framework of existing state law, rule,

1 precedent and the federal programs enacted in response to Covid-
2 19, operational guidelines released by both the governor and the
3 TWC publicized reasons benefits would be granted if the
4 individual refused work. The guidelines are at high risk:
5 people 65 years or older and/or people with medical issues are
6 at a higher risk from getting very sick from Covid-19.
7 Household member at high risk: people 65 years or older are at a
8 higher risk of getting very sick from Covid-19. Diagnosed with
9 Covid-19: the individual has tested positive for Covid-19 by a
10 source authorized by the state of Texas and has not recovered.
11 Family member with Covid-19: anybody in the household has tested
12 positive for Covid-19 by a source authorized by the state of
13 Texas and is not recovered and 14 days have not yet passed.
14 Quarantined: individual is currently in 14-day quarantine due to
15 close contact exposure to Covid-19. And childcare: child's
16 school or daycare is closed and no reasonable alternatives are
17 available. And Mr. Lara and Mr. Lewis just responded and both
18 of them brought up workplace safety as an issue. And the UI
19 Division believes that the existing language of Section 207.008
20 covers that issue and Covid-19 related reasons regarding
21 suitable work without the need for additional rules. 207.008
22 requires that the commission consider, among other things, the
23 degree of risk involved to the individual's health, safety and
24 morals at the place of performance of the work, and also the
25 individual's physical fitness. 207.045G1 also may allow

1 unemployment benefits when an individual returns to work for
2 less than four weeks in a job to be found unsuitable under
3 207.008. Finally, the federal program Pandemic Unemployment
4 Assistance or PUA is available as a safety net for those who may
5 not qualify for regular unemployment insurance but have been
6 directly affected by Covid-19. I know Mr. Lewis just responded
7 that he was concerned about the administration of that program
8 and I would assure the commissioners, the Chairman and the
9 petitioners that the UI Division is administering this program
10 fairly and on a case by case basis. With regard to the good
11 cause rule, the UI Division first points out that although the
12 petitioners include 207.053 in their rationale for the requested
13 rule, this section of law is not applicable to the requested
14 rule, because 207.053 has no good cause provision in it. Also,
15 this section only applies to the limited situation where an
16 individual quits rather than provide care to someone with Covid-
17 19. Furthermore, the rule requested by the petitioners, while
18 good intentioned as it may be, attempts to expand on 207.045's
19 limitation that good cause must be connected with the work. A
20 rule cannot legally undermine the meaning of an existing
21 statute. Simply put, the exceptions proposed by the petitioners
22 require lawmaking, not rulemaking. Also, the existing language
23 of 207.045 contains exceptions that may cover individuals
24 dealing with Covid-19. And for those that may not be covered by
25 state unemployment insurance, again the federal PUA program

1 provides that safety net through the payment of federal benefits
2 to those who must quit a job as a direct result of Covid-19. In
3 conclusion, the UI Division shares the petitioner's concerns for
4 Texans in need due to Covid-19, but those concerns have already
5 been addressed without need for the requested rules. Therefore,
6 the UI Division recommends that both petitions be denied and
7 rulemaking in this case not be initiated. I'm happy to answer
8 any questions you may have regarding our recommendation.

9 CHAIRMAN DANIEL: Comments or questions?

10 JULIAN ALVAREZ III: I do have some
11 comments, Chairman, if that's okay. First of all, Mr. Oakley
12 and Ms. Mills, thank you for bringing this forth, and I
13 appreciate your comments. First of all, I would like to thank
14 the petitioners for bringing their concerns before us and
15 highlighting these matters. I would also like to thank Jonathan
16 Lewis from the Center for Public Policy Priorities and Rene Lara
17 from the Texas AFL-CIO for their comments this morning.

18 Although I share the concerns raised by the petitioners, I do
19 not believe the rules as presented provide the best options for
20 addressing the issues at hand. Instead, I prefer staff to
21 initiate rulemaking proceedings and develop modified rules in
22 accordance with actions taken by the commission in the past
23 months to address this emergency. Regarding suitable work, I
24 would like staff to look to language the commission adopted
25 recently on June 16, 2020 regarding suitable work due to the

1 impact of Covid-19 in initiating rulemaking proceeds. Through
2 the formal rulemaking process, employers, claimants and other
3 interested parties would have the opportunity to provide the
4 commission with comments on these potential rules. Regarding
5 good cause for voluntary leaving, the proposed rules would
6 broaden the scope beyond those found in Section 207.045A of the
7 Texas Unemployment Compensation Act or broaden the exceptions
8 into statutes. Currently, Section 207.045D1 provides protection
9 to individuals who leave employment due to their own illness or
10 that minor child. I request staff to look into possibilities of
11 protecting individuals who must suspend work due to Covid-19
12 related illness in their household, beyond that or their
13 personal illness, or the illness of their minor child. So,
14 thank you. Those are my comments, Chairman.

15 CHAIRMAN DANIEL: Commissioner?

16 AARON DEMERSON: Hear me out. Let me,
17 first of all, say thanks to Rene and Jonathan for bringing the
18 request forward and we encourage them to continue to do that,
19 however I appreciate staff's thorough looking into this
20 situation and any other information that may be coming forward
21 we look forward to receiving that. And so, Commissioner Alvarez
22 mentioned a number of items here and I'd love to have that
23 further discussed. I'm not sure if we need to do any rulemaking
24 along that line, but further discussion is something I would
25 like to see before we even move into any rulemaking processes.

1 CHAIRMAN DANIEL: I too commend Mr. Lewis
2 and Mr. Lara for their comments today. It does raise a good
3 issue, and I do agree with UI staff in the sense that I believe
4 these issues have been addressed through current statute,
5 current rule and then some commission actions that have been
6 taken recently. I don't exactly align with Commissioner Alvarez
7 on this issue in terms of I don't think we need additional
8 rulemaking. However, I'm not too far off of his position which
9 is my recommendation to the staff was going to be to continue to
10 monitor this situation on a regular basis and allow this
11 commission to move quickly should we need to take action to
12 protect Texans from whatever the situation may be. And so, you
13 know, there's I think a lot of general agreement here among the
14 commission today. I think we may diverge on some certain parts
15 of that and that's okay. I think that just adds to the debate.
16 But again, I think that I'll use the word petitioners, 'cause
17 there's more than one. I sincerely appreciate petitioners
18 bringing this to the commission's attention. I think it's
19 certainly worthwhile of conversation. It's a conversation we've
20 been having on an ongoing basis, and so I think it very
21 appropriate to have this opportunity to really talk through this
22 issue and understand where the commission and the staff are in
23 terms of implementing this provision. If there's no further
24 comments or questions I do think we need to take action on this
25

1 today due to the timeframes that are facing us. Are there any
2 motions?

3 JULIAN ALVAREZ III: Yes, Chairman. I have
4 a modified motion. Due to the two petitioners of emergency
5 rulemaking received April 29th of 2020 I move that pursuant to 40
6 Texas Administrative Code Section 800.255 we initiate rulemaking
7 proceedings and direct staff to bring a modified approach
8 establishing suitable work rules in accordance with language
9 previously adopted as guidance on June 16, 2020 to the
10 commission for consideration.

11 CHAIRMAN DANIEL: We would need a second to
12 consider that motion.

13 AARON DEMERSON: I think the conversation
14 that we've had, the interest in providing any rulemaking at this
15 time is not anything that I'm interested in. I'd like to have
16 further discussion. So, unless I'm reading the motion wrong I
17 don't want to proceed to any rulemaking. I think we've
18 addressed a number of the issues. Staff's addressed a number of
19 the issues that are there and further discussion may end up, as
20 you mentioned Mr. Chair, in rulemaking at some point. But right
21 now I don't think we're there.

22 CHAIRMAN DANIEL: Okay. Let's don't
23 abandon the spirit of Commissioner Alvarez's motion. So, I'm
24 going to make a procedural motion here, because we need to do
25 that. And then, I don't want to just cut off discussion on

1 Commissioner Alvarez's motion. I think my motion will make the
2 gist of his motion continue to be germane for discussion. My
3 motion would be as follows. I move to deny petitioners' request
4 for emergency rules.

5 AARON DEMERSON: Second.

6 CHAIRMAN DANIEL: It's been moved and
7 seconded to deny petitioners' request for emergency rules. I'm
8 voting aye.

9 AARON DEMERSON: Aye.

10 JULIAN ALVAREZ III: If I may have a minute
11 with my counsel real quick.

12 CHAIRMAN DANIEL: Please.

13 JULIAN ALVAREZ III: Thank you Chairman and
14 Commissioner. My vote is to abstain from this particular motion
15 that you just referenced. So, I'm abstaining.

16 CHAIRMAN DANIEL: Thank you, Commissioner
17 Alvarez. So, the motion will carry with the majority vote.
18 This is a motion to deny petitioners' request for emergency
19 rules. The basis for the denial which was just drawn from the
20 discussion that we had is that the commission in denying this
21 request for emergency rules believes that the appropriate
22 measures are in place to afford those protections. Then
23 emergency rules are not necessary in this case. I do think the
24 substance of Commissioner Alvarez's motion is still germane to
25 our discussion and would like to explore through that. Because

1 I think he's onto a thread here that we should probably continue
2 to work along, which is my interest in your motion would be to
3 not immediately being rulemaking on the part of staff but have
4 staff come back quickly and talk through where we may see any
5 unintended consequences and actions that we've already taken,
6 statutes that we believe afford protections and then various
7 commission actions that we've taken through the Covid-19
8 situation. So, rather than immediately proceed to rulemaking,
9 my interest would be for staff to give this a thorough top to
10 bottom review, understand whether or not we feel like there
11 needs to be additional measures put in place due to federal
12 changes or anything that may be occurring and to get a report,
13 perhaps at the next commission meeting, understanding our belief
14 that everything's in place. But if we need to do something
15 additional, we should do that. That doesn't exactly get to
16 where you want to go, Commissioner Alvarez, but I think it gets
17 us to a point where we can have a discussion about any
18 rulemaking that we need to take.

19 JULIAN ALVAREZ III: I just want to remind
20 everyone that the rulemaking process should be approved by the
21 commission and, you know, I appreciate the comments you made,
22 Chairman. So, that was my attempt here, again. And I
23 appreciate the two individuals that provided us with some
24 remarks today. And again, I just want to keep in mind June 16th

25

1 of 2020 we took action on the six factors and putting them into
2 rule. So, please consider that as we move on.

3 CHAIRMAN DANIEL: In light of the vote that
4 we just took on denying the petitioners' request for emergency
5 rules and the need for us to continue this discussion, if
6 there's no objection by any member of this commission I would
7 instruct staff to be prepared at the next commission meeting to
8 report to us on this issue to affirm that our belief that all
9 the protections are in place are indeed in place and to make any
10 recommendations that they see may be necessary for future
11 rulemaking.

12 AARON DEMERSON: I think that's very
13 appropriate that staff look at what's been presented and if
14 there's anything else out of that that's for the good of us and
15 employers, the employees here in Texas we ask them to do exactly
16 that.

17 CHAIRMAN DANIEL: Thank you. We need to
18 move to Agenda Item 10, discussion, consideration and possible
19 action regarding fiscal year 2019 financial statements by career
20 schools and colleges.

21 KERRY BALLAST: Good morning,
22 commissioners. Can you hear me?

23 CHAIRMAN DANIEL: Just barely.

24 KERRY BALLAST: I'll turn up my volume.
25 How's that?

1 CHAIRMAN DANIEL: That's much better.

2 KERRY BALLAST: Okay, good morning. It's
3 good to see you. This is Kerry Ballast, Workforce Development
4 Division. I bring to you today an item regarding career schools
5 and financial reporting requirements. Texas Education Code
6 Chapter 132 requires the Texas Workforce Commission to ensure
7 that career schools and colleges are financially sound. To that
8 end, TWC Chapter 807, career schools and college rules, sets the
9 final requirements for financial reporting. Financial reports
10 are due no later than 180 days after the school's designated
11 fiscal year end date. For most career schools the fiscal year
12 end date is December 31, which means that financial statements
13 must be submitted by June 30th of the next year. As a result of
14 the Covid-19 pandemic and the measures put in place to ensure
15 public safety, some career schools and colleges have been
16 impacted in their abilities to meet the financial reporting
17 requirements deadline of June 30th of this year. Career school
18 staff seeks direction on the following action to assist career
19 schools and colleges as they resume operations. Staff asks that
20 the commission grant a 90 calendar day financial reporting
21 extension for career schools and colleges with a fiscal year end
22 date of December 31, 2019. The 90-day extension will be applied
23 to the original June 30, 2020 due date making the new FY19
24 financial statement due date September 28, 2020. That is all.
25 I'm happy to answer any questions that you have.

1 CHAIRMAN DANIEL: Comments or questions?

2 JULIAN ALVAREZ III: No, Chairman.

3 AARON DEMERSON: None, here.

4 CHAIRMAN DANIEL: Just I want to ask one
5 clarifying question if I could.

6 KERRY BALLAST: Yes, sir.

7 CHAIRMAN DANIEL: So, this provision that
8 we're discussing right now really is just dealing with the
9 financial report that would typically be due end of June. We're
10 pushing that out to the end of September.

11 KERRY BALLAST: Yes.

12 CHAIRMAN DANIEL: Nothing else in here
13 would impact the prescribed renewal process for schools under
14 this section.

15 KERRY BALLAST: No, sir. Just simply
16 meeting this deadline.

17 CHAIRMAN DANIEL: Yeah, so it really is
18 just the movement of the deadline.

19 KERRY BALLAST: Yes, sir.

20 CHAIRMAN DANIEL: Okay, thank you. Any
21 other questions or comments?

22 JULIAN ALVAREZ III: No, Chairman.

23 CHAIRMAN DANIEL: Do we have a motion
24 today?

25

1 JULIAN ALVAREZ III: I move that we grant a
2 90-day calendar day financial reporting extension for career
3 schools and colleges with a fiscal year ending on December 31,
4 2020 as discussed by staff.

5 AARON DEMERSON: Second the motion.

6 CHAIRMAN DANIEL: Can you read that motion
7 back to me one more time?

8 JULIAN ALVAREZ III: Yes, Chairman. I move
9 that we grant a 90-day calendar fiscal reporting extension for
10 career schools and colleges with a fiscal year ending on
11 December 31st of 2020 as discussed by staff.

12 CHAIRMAN DANIEL: So, Commissioner Alvarez,
13 if I can ask a clarifying question on the motion. I believe
14 that this would be for the fiscal year ending 2019, that there's
15 a lag in reporting for our review purposes.

16 JULIAN ALVAREZ III: Okay. Chairman, thank
17 you for bringing that to my attention. If I may make my motion
18 again with the correction noted.

19 CHAIRMAN DANIEL: Please.

20 JULIAN ALVAREZ III: I move that we grant a
21 90 calendar day financial reporting extension for career schools
22 and colleges with a fiscal year ending on December 31, 2019 as
23 discussed by staff.

24 AARON DEMERSON: I second that motion.

25

1 CHAIRMAN DANIEL: It's been moved and
2 seconded. We're unanimous.

3 JULIAN ALVAREZ III: Thank you, Chairman.

4 CHAIRMAN DANIEL: Thank you very much,
5 Commissioner Alvarez. This is Item 11, discussion,
6 consideration and possible action regarding a policy concept on
7 general administrative rules, 40 TAC Chapter 800, related to
8 Senate Bill 1055, Workforce Diploma Pilot Program.

9 KERRY BALLAST: Good morning again,
10 commissioners, Mr. Serna. Kerry Ballast, Workforce Development
11 Division. Senate Bill 1055 of the 86th Texas Legislature added
12 new Chapter 317 to the Texas Labor Code requiring the Texas
13 Workforce Commission in consultation with the Texas Education
14 Agency to create and administer a Workforce Diploma Pilot
15 Program. As outlined in Chapter 317, the program will allow
16 eligible high school diploma-granting entities to be reimbursed
17 for helping adult students obtain high school diplomas and
18 industry-recognized credentials and develop technical career
19 readiness and employability skills. Senate Bill 1055 stipulates
20 that TWC develop rules in the implementation of this program.
21 Because staff will be implementing this program as the rules are
22 developed, this policy concept will be posted to the Texas
23 Register for a 30-day comment period. Staff seeks direction on
24 creation of a new subchapter in Chapter 800, Workforce Diploma
25 Reimbursement Program, to outline the application process to

1 become a qualified provider, to describe the minimum performance
2 standards for qualified providers and to develop formulas to
3 make the appropriate calculations to determine graduation rate
4 and program cost per graduate. Those are all my remarks. I'm
5 happy to answer any questions you have.

6 CHAIRMAN DANIEL: Questions or comments?

7 JULIAN ALVAREZ III: I do have some
8 questions. First of all, I appreciate the conversations that
9 I've had with the Texas Association of Businesses, specifically
10 regarding 1055, and I also appreciate the senator bringing this
11 forth. Kerry, the only question that I have, and this is
12 discussions that I've had with the groups that I've just
13 referenced, would inmates be eligible to participate in this
14 high school and industry-recognized credential? Would inmates
15 make it into transition? And if you need clarification I'd be
16 more than happy to provide you with that.

17 KERRY BALLAST: Yes, sir, I think I have
18 it. We have discussed the possibility of a program such as this
19 being present in one of our correctional facilities and feel
20 that it is possible if we had a provider such as a Wyndham
21 School District or another provider who works with adults in
22 obtaining a school diploma make application to become a
23 qualified provider. We do see that this could be present in a
24 reentry program or in a correctional facility itself.

25

1 JULIAN ALVAREZ III: So, if I may ask for
2 that to be noted that you are having further discussions
3 allowing individuals that are transitioning, those that have
4 been inmates transitioning out to civilian life, that we provide
5 this. Further discussion with the commissioners would probably
6 be appropriate. I do know of two facilities that I have
7 visited, Elite College Incarceration Center, which is also
8 involved with Wyndham and Huntsville. And then of course, the
9 women's prison who has a program in Lockhart. If you need any
10 assistance, we'd be more than happy to provide you with that.
11 But wanted to thank you for the report and for certainly into
12 looking out after this population.

13 KERRY BALLAST: It's our pleasure. Thank
14 you, sir.

15 CHAIRMAN DANIEL: Other comments or
16 questions.

17 AARON DEMERSON: None here.

18 CHAIRMAN DANIEL: None. Do we have any
19 motions?

20 JULIAN ALVAREZ III: I move that we approve
21 the policy concept for the creation of a new subchapter in
22 Chapter 800, Workforce Development, correction, Workforce
23 Diploma Reimbursement Program as discussed by staff.

24 AARON DEMERSON: Second.

25

1 CHAIRMAN DANIEL: It's been moved and
2 seconded. We're unanimous. Let's move to Agenda Item 12,
3 discussion, consideration and possible action regarding policy
4 concepts on Texas Industry-Recognized Apprenticeship Programs
5 Grant Program under Chapter 302, Subchapter I of the Texas Labor
6 Code.

7 KERRY BALLAST: And good morning again.
8 Kerry Ballast, Workforce Development Division. House Bill 2784
9 of the 86th Texas Legislature amended Chapter 302 of the Texas
10 Labor Code by adding Subchapter I and creating the Texas
11 Industry-Recognized Apprenticeship Programs Grant Program. The
12 program is intended to address Texas's immediate industrial
13 workforce needs resulting from the impact of hurricanes, other
14 natural disasters and overall workforce shortages. House Bill
15 2784 establishes a dedicated account, the Texas Industry-
16 Recognized Apprenticeship Fund in the General Revenue Fund to
17 implement the legislation's provision. 2784 requires the Texas
18 Workforce Commission to implement 2784 only if the legislature
19 appropriates funds specifically for this purpose. Today the
20 legislature has no made any such appropriations. House Bill
21 2784 does allow TWC to implement provisions in part using other
22 appropriations available for this purpose. TWC will move
23 forward with the implementation of this legislation allowing
24 rules, forums, policies, procedures and decisions related to the
25 program to ensure readiness for any future appropriations.

1 Staff seeks direction in creation of new Chapter 3838 of the
2 Texas Administrative Code for the implementation of the
3 Industry-Recognized Apprenticeship Program Grant Program and
4 seeks direction on the following decision points. We propose
5 definitions of terms to be used in the IRAP Grant Program, a
6 requirement that eligible grant recipients use an application
7 process to receive grant funding, a requirement that IRAPs be
8 identified as agency grantees and therefore comply with the
9 applicable rules of 40 TAC Chapter 802, and we further ask
10 further consideration of other elements for the program,
11 including funding considerations to gain return on investment,
12 the right to establish limitations on the total amount of grant
13 awards and the right to establish program objectives in
14 administering the IRAP Grant Program. That concludes my
15 remarks. I'm happy to answer any questions you have.

16 CHAIRMAN DANIEL: Comments or questions?

17 JULIAN ALVAREZ III: I do have a comment,
18 Chairman. First of all, Commissioner Demerson and I were
19 fortunate enough to be at the signing of 2784 with SMB
20 infrastructure where it was made into a law. I'd like to thank
21 Desi and of course, from our apprenticeship team and Kerry for
22 their hard work in preparing these rules. I want to thank you
23 for that. We were, again, referencing where we were at with SMB
24 infrastructure when they did the signing to remind everyone it
25 was military service women that were transferring out of

1 military service and picking up a credential in welding. Kerry,
2 I have a question for you at this time. Does the proposed rule
3 require a wage increase at the end of the training just like
4 registered apprenticeship programs and our skills development
5 program? I guess, just to be clear, I'd hate for someone to
6 start the program making a certain wage and complete it making
7 the same amount of wage.

8 KERRY BALLAST: As of yet, sir, the
9 legislation does not make reference to wage increases.

10 JULIAN ALVAREZ III: I would ask that we
11 consider that. Also, I'd like to say as we move forward with
12 the proposed rules we would want to have a detailed discussion
13 on progressive wage and wage completion if that's okay.

14 KERRY BALLAST: So noted, thank you.

15 JULIAN ALVAREZ III: There are no more
16 comments I have, Chairman.

17 CHAIRMAN DANIEL: Other comments or
18 questions?

19 AARON DEMERSON: I agree with Commissioner
20 Alvarez in regards to wage requirements. Some of the discussion
21 points talked about a self-sufficiency wage or a federal minimum
22 wage. Again, on behalf of the employers I really want to make
23 sure that they're in tune to whatever these wage requirements
24 are so that we can have that discussion with industry
25 association groups to make sure that we're on point. I

1 appreciate the work that's being done. I think this is an
2 awesome opportunity for employers. The flexibility and the
3 choices that it gives are something that's of interest to
4 employers as it relates to wage requirements. I definitely want
5 to have a discussion around that. We're in agreement with
6 what's already there, but if there's any increase or anything
7 along those lines we'd like to be involved in that discussion.

8 KERRY BALLAST: So noted, thank you.

9 CHAIRMAN DANIEL: Other comments or
10 questions?

11 JULIAN ALVAREZ III: No, Chairman.

12 CHAIRMAN DANIEL: Is there a motion?

13 JULIAN ALVAREZ III: I move that we approve
14 the proposed rules for Chapter 838 Texas Industry-Recognized
15 Apprenticeship Grant Program's rules and post to our website for
16 comments.

17 AARON DEMERSON: Second.

18 CHAIRMAN DANIEL: It's been moved and
19 seconded. We're unanimous. Thank you.

20 KERRY BALLAST: Thank you.

21 CHAIRMAN DANIEL: This is Item 13,
22 discussion, consideration and possible action regarding policy
23 concepts on Integrated Complaints, Hearings and Appeals Rules 40
24 TAC Chapter 823.

25

1 JULIAN ALVAREZ III: Thank you, Mr. Oakley,
2 for the report. I move that we approve the policy concept for
3 amendments to Chapter 823, Integrated Complaints, Hearings and
4 Appeals as discussed by staff.

5 AARON DEMERSON: Second the motion.

6 CHAIRMAN DANIEL: It's been moved and
7 seconded. We're unanimous. Thank you.

8 CHRIS OAKLEY: Thank you.

9 CHAIRMAN DANIEL: This is Item 14,
10 discussion, consideration and possible action regarding policy
11 concepts on Chapter 809 child care services regarding
12 implementation of House Bill 680 enacted by the 86th Legislature
13 regular session.

14 ALLISON WILSON: Good morning. This is
15 Allison Wilson, for the record, with the Early Childhood
16 Learning Division. Good morning, commissioners. I'm sorry, can
17 you hear me?

18 CHAIRMAN DANIEL: Yeah.

19 ALLISON WILSON: Okay. I'm having trouble
20 showing my video right now, so I guess you're just going to have
21 sound from me. So, again, good morning, commissioners, Mr.
22 Serna. For the record, Allison Wilson, Childcare in Early
23 Learning Division. This policy concept includes several issues
24 for your consideration today. The first issue is related to
25 House Bill 680 and professional development activities boards

1 fund with their childcare quality funds. House Bill 680
2 requires each board to the extent practical to ensure that
3 professional development for childcare be used for the
4 requirements for a credential certification or degree program
5 and that the professional development meet requirements of the
6 Texas Rising Star Program. Staff seeks direction on amending
7 Childcare Services Rules 809.16 to require the boards' quality
8 improvement activities align with applicable state laws as well
9 as the childcare and development funds state planned. So, I can
10 continue to move through the issues or if you would prefer to
11 take action on each one individually. What is your preference?

12 CHAIRMAN DANIEL: I have no preference.

13 JULIAN ALVAREZ III: What do you think?

14 CHAIRMAN DANIEL: Let's just move through
15 them and we'll take action at the end. How about that?

16 ALLISON WILSON: Okay. Okay, sounds good.

17 The next set of issues are also related to House Bill 680.

18 These are specific to allowing boards to enter into agreements
19 with childcare providers for contracted slots. Issue 2.1
20 relates to allowing boards to pay for reserved slots in these
21 models. Currently 80993 prohibits a board or its childcare
22 contractor from paying providers to hold spaces open. However,
23 in a contracted slots model the board may continue payment for a
24 reserved slot, excuse me, during times of transition between the
25 time that one child leaves and another child is placed in the

1 slot. Staff seeks direction on allowing boards to pay for
2 reserved slots that are not occupied for one month following the
3 month of vacancy and for amending the following sections of
4 Chapter 809 to describe policies and procedures for contracted
5 slots agreements. That would be 80813, 80993 and also creating
6 a new section 809.96 for contractor slots agreements. Issue 2.2
7 relates to childcare waiting lists and priorities. Childcare
8 Services Rule 809.18 requires boards to maintain waiting lists
9 for families waiting for childcare services and to serve
10 families in order of priority as defined in Rule 809.43. These
11 waitlists cover the entire workforce area and families are
12 contacted in order of priority, often without regard to the
13 family's preferred area for care. Staff seeks direction on
14 amending 80918 to allow boards to consider a parent's preference
15 for locating care when working the waitlist. When a contracted
16 spot becomes open, the board will first contact families on the
17 waiting list that requested care in the provider's zip code and
18 in order of priority. This will allow boards to pursue a
19 contracted slots model to quickly fill slots and avoid boards
20 paying for vacant reserved slots. Issue three is related to
21 eligible geographic location. House Bill 680 limits contracted
22 slots to specific state and local priorities. One priority
23 requires the provider to be in an area of high need and low
24 capacity. Staff seeks direction on including language and rules
25 to specify that TWC will publish data annually about geographic

1 areas with inadequate childcare capacity for working families
2 with young children and that TWC will further define targeted
3 underserved populations in the CC state plan. Issue four
4 relates to direct referrals from public through kindergarten and
5 Early Head Start partnerships. Another priority defined in
6 House Bill 680 is Texas Rising Star providers engaged in
7 partnerships with public, pre-K or with Head Start or Early Head
8 Start. However, Chapter 809 does not currently allow for a
9 separate path for enrolling eligible children who are directly
10 referred from a partnering program. Creating a separate path
11 for enrollment could support more stable partnerships, maximize
12 available funding to serve more children and provide improved
13 customer service to participating families. A separate
14 enrollment path could support partnerships regardless of whether
15 they are part of a contracted slots model or not. Staff seeks
16 direction on adding a subsection to 809.13 to require boards to
17 establish policies and procedures, to enroll eligible children
18 who are directly referred by a recognized pre-K, Head Start or
19 Early Head Start partnership and amending 809.18 to exempt
20 children directly referred from recognized partnerships from the
21 board's waiting list. Subject to availability of funding and
22 the availability of subsidized slots at a partnership site.
23 Issue five, this is the last one, is not related to House Bill
24 680 but provides a technical correction related to parents'
25 share of costs for part-time referrals. In September 2016 TWC

1 adopted amendments to Chapter 809 to align with the new
2 requirements of the Childcare and Development Block Grant Act of
3 2014. Specifically, TWC amended 809.19 requirements for
4 parents' share of costs to limit the basis of the sliding fee
5 scale to family size and income. With this rule change, boards
6 were no longer able to offer discounts for part-time care.
7 However, subsequent information, including ACF, the
8 Administration for Children and Families' CCDF state plan
9 template for federal fiscal years 2019 through '21 allow for
10 differentiated parent share of costs for part-time care. TWC
11 can reduce the financial burden on families that need part-time
12 care by authorizing boards to assess the parents' share of costs
13 at the full-time rate and allow reductions for families with
14 part-time referrals. Staff seeks direction on amending 809.19
15 to authorize boards to allow reductions in parents' share of
16 costs for children with referrals for part-time care. And that
17 concludes my remarks and I am happy to answer any questions you
18 have.

19 CHAIRMAN DANIEL: Comments or questions.

20 JULIAN ALVAREZ III: Chairman, I'd like to
21 take this opportunity to thank Allison Wilson and of course
22 Reagan Miller for their hard work and a great policy concept.
23 I'm also very glad to see that we're partnering up with our
24 Early Head Start and our Head Start programs. So, thank you for
25 that, Allison.

1 AARON DEMERSON: Allison, real quick
2 question. On page five of the document, line item 19 says
3 amending 809.18 and you mentioned 809.19. Is that correct? Is
4 it 809.18 or 809.19.

5 ALLISON WILSON: Let me. Which page are
6 you on?

7 AARON DEMERSON: Page five.

8 ALLISON WILSON: Sorry, I got my video
9 working. Bear with me one second. Yes, it's 18.

10 AARON DEMERSON: It is 18, 809.18.

11 ALLISON WILSON: Yes, 809.18, maintenance
12 of a waiting list.

13 AARON DEMERSON: Okay. All right, thank
14 you.

15 ALLISON WILSON: No problem.

16 CHAIRMAN DANIEL: Other comments or
17 questions?

18 JULIAN ALVAREZ III: No, Chairman.

19 CHAIRMAN DANIEL: Do we have any motions?

20 JULIAN ALVAREZ III: I move that we amend
21 Chapter 809 to align with House Bill 680 and House Bill three
22 and that we make additional changes as discussed by staff.

23 AARON DEMERSON: Second.
24
25

1 CHAIRMAN DANIEL: It's been moved and
2 seconded. We're unanimous. I think that takes care of that.
3 Thank you.

4 JULIAN ALVAREZ III: Yes, sir.

5 CHAIRMAN DANIEL: Agenda Item 15. I
6 understand there's a discussion paper on Agenda Item 15,
7 statewide initiatives, is being postponed to a future commission
8 meeting. This brings us to Agenda Item 16, discussion,
9 consideration and possible action regarding publication for
10 public comment of proposed rules relating to the Skills
11 Development Fund 40 TAC, Chapter 803.

12 CHRISTINA RAMOS: Good morning, Chairman
13 Daniel, commissioner and Mr. Serna. For the record, Christina
14 Ramos from Workforce Division. This morning I am requesting
15 your approval on the proposed rule changes to Chapter 803 of the
16 Texas Administrative Code that governs the Skills Development
17 Fund for submission and publication in the Texas Register. As
18 you may recall, during the 86th legislative session House Bill
19 700 was passed, which amended sections of the Texas Labor Code,
20 Chapter 303, relating to the Skills Development Program. The
21 bill amended Section 303.001A to add local workforce development
22 boards to the list of entities that are eligible to use grant
23 funds as an incentive to provide customized assessment and
24 training. Before I highlight some of the proposed changes I
25 would like to note that we just received a letter from

1 Representative Ryan Guillen and Senator Beverly Powell and thank
2 them for their input about the role of the local workforce board
3 in review when possible. We will definitely take this under
4 advisement during the public comment period. Some of the
5 highlighted changes to the rules include amending Section 803.1A
6 to add boards to the list of eligible entities to provide
7 customized assessment and training. Section 803.2 to update
8 definitions to include boards as eligible partners and grant
9 recipients. Section 803.14 is also amended to remove the
10 requirement that board review and comment on skills applications
11 submitted to TWC and to include boards and other provisions of
12 the procedure for requesting funding. Section 803.15, the
13 procedure for proposing evaluation is also amended to remove the
14 requirement that TWC notify boards when evaluating a skills
15 application instead requiring that TWC notify all eligible
16 applicants when it is evaluating a new application to promote
17 collaboration and awareness of potential workforce activities in
18 the area. Lastly, Section 803.15 is added to prohibit skills
19 applicants on corrective action plans as described in Chapter
20 802, subchapter G, corrective actions from receiving a skills
21 grant. Additionally, House Bill 108, which passed during the
22 85th session, amended the labor code, Section 303.0031, regarding
23 the use of grant funds to encourage employer expansion and
24 recruitment. The section allows grants to provide an intensive
25 and rapid response to and support services for employers

1 expanding in or relocating their operations to the state with a
2 focus on recruiting employers that will provide complex or high
3 skilled employment opportunities in this state. We are
4 proposing amending Section 803.4 to incorporate this change.
5 There are also some minor changes correcting the name of the
6 Texas A&M Engineering Extension Service to include A&M and some
7 technical changes updating outdated references in the rule.
8 With your approval we request you move forward with publication
9 in the Texas Register for public comment. Are there any
10 questions at this time?

11 JULIAN ALVAREZ III: Chairman, I have a
12 question. Thank you, Christina, for the presentation. In the
13 report I noticed that we use the word competing grant. Can you
14 give me what is the definition that you see in what competing
15 grant is?

16 CHRISTINA RAMOS: I'm sorry, Commissioner.
17 I'm having a little trouble hearing you.

18 JULIAN ALVAREZ III: Yes, Ms. Ramos. The
19 question was what is the definition according to what we were
20 given of a competing grant?

21 CHRISTINA RAMOS: A competing grant I guess
22 it would be a grant submitted to provide like or duplicate
23 training in the same area. In other words, we would have two
24 grants that would be competing to provide healthcare training in
25 the same board area.

1 JULIAN ALVAREZ III: Thank you, Ms. Ramos.
2 I'd also like to take this opportunity to thank Mr. Greg Vaughn
3 from the Texas Association of Workforce Boards, and I believe
4 that he raises some pretty good questions, points, some valid
5 points. One of them would be as I look over some of the things
6 that he had discussed was to enact a rule, TWC enact a rule that
7 would restrict a workforce development board from submitting an
8 SDF Grant application unless it certifies that no other
9 qualified organization was reasonably available to fill the
10 workforce development board's contemplative role in the grant.
11 In other words, avoiding competition with your local community
12 college or any other partner or duplication.

13 CHAIRMAN DANIEL: Mr. Trobin?

14 LES TROBIN: Good morning, Les Trobin,
15 general counsel. We do have one person registered to provide
16 input today. It's Greg Vaughn. If you'll go ahead and
17 introduce yourself and who you represent.

18 GREG VAUGHN: Good morning. Can you hear
19 me?

20 LES TROBIN: We can.

21 GREG VAUGHN: Good. Well, good morning,
22 Chairman Daniel, Commissioner Alvarez, Commissioner Demerson and
23 Mr. Serna. Thank you for this opportunity to speak to you this
24 morning. As mentioned, my name is Greg Vaughn and I'm the
25 executive director of the Texas Association of Workforce Boards,

1 an organization comprised of the 28 local workforce development
2 boards in Texas. Our members are very concerned about this
3 proposed rule that would eliminate the requirement that local
4 workforce boards review non-board skills development fund
5 applications before submission to TWC. We have provided written
6 comments to each of you and members of the TWC staff. In those
7 comments we address some key overarching points such as the
8 importance and value of this requirement for ensuring
9 collaboration among workforce development partners, the
10 importance and value of maintaining this role for the boards and
11 ensuring employer-driven workforce system, the value that local
12 boards provide in the process, which I know you all embrace, and
13 the congruence of the present system to the principle of local
14 control embodied in state and federal legislation for workforce
15 boards. Those are all several key principles included in our
16 comments. But today, I wanted to make a few points specifically
17 directed to what appear to be some of the presuppositions of the
18 proposed rule changes. No one argues that the rule proposal
19 does not conform to the legislative intent of HB 700. That
20 piece of legislation addresses a need to provide alternative
21 solutions to skills training in an area where community college
22 or other SDF eligible grant recipients for whatever is unable to
23 provide that training. That is not the issue. Our contention
24 is with the underlying premise that adding workforce boards as
25 eligible grant recipients creates a competitive scenario in all

1 circumstances with other eligible SDF grant recipients. And
2 then as an extension, that allowing workforce boards to review
3 proposals of non-board applicants creates some sort of unfair
4 advantage for workforce boards. We do not view this as an
5 accurate perception of the process. First, workforce boards are
6 prohibited by law from providing customized training services
7 that they would not be in competition, parenthetic, with area
8 training providers. Again, this legislation is directed to
9 situations where the eligible grant recipients are unable to
10 provide the training. Arguably as such, no rule revision is
11 necessary because no competition or unfair advantage is
12 relevant. Second, the proposed rule revision appears to assume
13 that just because a workforce board is an eligible grant
14 applicant that makes it an actual grant applicant in all
15 instances regardless of whether the board has submitted an
16 application. It also assumes that all grant applications from
17 an area are directed to the same training needs targeted to the
18 same employer groups. That is not the reality, but it is how we
19 should be defining the parameters of a competitive situation and
20 whether or not some sort of unfair process exists. The reality
21 is we just do not believe there's going to be a preponderance of
22 situations where some sort of conflict of interest is created by
23 this legislation allowing the workforce boards to be SDF grant
24 applicants. Some boards have no intention of applying for an
25 SDF grant because they have ample training providers in their

1 areas, but they certainly do not want to relinquish their role
2 in reviewing applications. That is one of their bedrock
3 functions and value propositions they provide in the process.
4 In the event a situation does occur, which we believe will be
5 extremely rare, we believe there are other alternatives we can
6 devise to address the situation specifically without undermining
7 a collaborative process that has delivered such outstanding
8 results for many years. We have offered a few suggestions in
9 the comments we have provided and would welcome the opportunity
10 to explore other options with the TWC staff and leadership.
11 Finally, before I sign off I just want to note that Todd and I
12 respect and appreciate the work and knowledge of the TWC staff
13 in these ongoing discussions. They have demonstrated what I
14 deem is the utmost professionalism and dedication, especially in
15 these challenging times. Todd looks forward to the opportunity
16 to working with the commissioners and staff to maximize the SDF
17 process going forward. Thank you for the opportunity to speak
18 with you this morning.

19 CHAIRMAN DANIEL: Thank you. So, comments
20 and questions for either person.

21 JULIAN ALVAREZ III: Chairman, as I
22 referenced earlier, I appreciate Christina Ramos's report. I
23 also would like to take this opportunity to thank Greg Vaughn
24 for his comments, and again I believe that he does bring valid
25 points to the discussion.

1 AARON DEMERSON: I do thank the team for
2 putting this together. Christina, you talked about
3 collaboration. I heard you mention that word. Can you go over
4 that once again? What collaborative efforts did you mention?

5 CHRISTINA RAMOS: I didn't go into detail
6 about the collaborative efforts, Commissioner, however one of
7 the things that we do recommend in the proposed changes is to
8 inform all eligible grantees or all eligible applicants when an
9 application has been submitted for funding.

10 AARON DEMERSON: Okay. Okay, that's it.

11 CHAIRMAN DANIEL: Commissioners, I got to
12 tell you. I received a letter from members of the legislature
13 who I believe were the house and senate sponsor of this bill
14 making boards eligible after this commission meeting began. I
15 typically don't try to read my email while we're conducting
16 business, and so I've not even read that letter. I think that,
17 although I intend to, it's just simply timing on that. I just
18 only received it moments ago. I think Mr. Vaughn makes some
19 compelling points. I have some concerns about boards being in
20 competition for grants with other eligible grantees and how we
21 can resolve this issue. The role of boards in reviewing
22 applications was always regulatory. It was never a statutory
23 condition. And so, I think that that's certainly an issue
24 that's right for the commission to discuss. I'm uncomfortable
25 proceeding on staff's proposal until I've had a chance to review

1 information from the legislature. That's how our process works
2 and I want to understand their view of their legislative intent,
3 because that certainly is part of the consideration of this.
4 And I think I would be much more comfortable if I could
5 understand how an opportunity to engage with the members of the
6 legislature who've chosen to weigh in on this before I'm asked
7 to render a decision on this. My request to you would be unless
8 you wish to proceed I believe we can pull this down and bring
9 this back up for discussion at a subsequent commission meeting.

10 JULIAN ALVAREZ III: Chairman, I agree with
11 you and I appreciate your comments. And as you referenced
12 earlier, we did receive a letter from both Ryan Guillen and
13 Senator Powell, and I appreciate what the intent of the bill
14 was. And so, I know this was during last session, House Bill
15 700, so I appreciate that and I certainly understand what the
16 intent was. And so, with that I agree with you.

17 AARON DEMERSON: It sounds like Greg has
18 been working with Christina and those teams and I'd like to make
19 sure that that's continuing to take place so that we don't end
20 up where we are again here. Those conversations get us to a
21 point where we're able to move forward versus continuing to push
22 it out.

23 CHAIRMAN DANIEL: So, with no objection,
24 let's pull this down from consideration today and we'll place
25 this on an agenda for a subsequent commission meeting.

1 CHRISTINA RAMOS: Thank you.

2 CHAIRMAN DANIEL: Let's then move to Agenda
3 Item 17A, discussion, consideration and possible action
4 regarding guidance on resource utilization and implementation of
5 services and strategies to target disaster relief efforts and
6 public health emergencies. First, we have a discussion paper on
7 Covid-19 skills funding for additional program parameters.

8 ED SERNA: Actually, we're going to start
9 with the childcare one.

10 CHAIRMAN DANIEL: All right.

11 ED SERNA: Ms. Chairman, Reagan Miller and
12 then move to the--

13 REAGAN MILLER: Good morning,
14 commissioners. Can you hear me?

15 JULIAN ALVAREZ III: Yes, ma'am.

16 CHAIRMAN DANIEL: Yes.

17 REAGAN MILLER: Okay, great. Chairman,
18 commissioners, Mr. Serna. For the record, Reagan Miller with
19 the Childcare and Early Learning Division. Today for your
20 consideration is a letter requesting a waiver of the pre-K match
21 provisions contained in federal regulation 45CFR, Section
22 98.53H3. Under those federal regulations, the Secretary of
23 Health and Human Services has defined the percent of the state's
24 childcare match that can be certified through the state's pre-K
25 expenditures. In 2007 these regulations were modified to allow

1 states to certify up to 30% of their match based on pre-K
2 expenses, increased from the prior 20%. The preamble to the
3 final regulations noted that the certification of pre-K
4 expenditures was intended to give states increased flexibility
5 in making the necessary state expenditures on childcare to draw
6 down their full allotment of CCDF matching funds. States are
7 also required to demonstrate how they will coordinate their pre-
8 K and childcare services to expand the availability of
9 childcare. During Covid, Texas is in need of increased
10 flexibility in order to draw down the full allotment of CCDF
11 matching funds. Additionally, we can demonstrate an increased
12 support in coordination for pre-K and childcare. In the past
13 legislative session, the Texas legislature increased funding for
14 pre-K and implemented full-day pre-K for all eligible four-year-
15 olds. The legislature also directed schools to work more
16 closely with childcare, specifically to pursue partnerships with
17 community-based childcare providers and to develop childcare
18 pre-K partnerships. TWC and TEA have been collaborating to
19 provide technical assistance to both schools and childcare
20 programs in the development of these pre-K partnerships. In
21 light of Covid's impact on our board's ability to certify match
22 from schools since schools were forced to close, we would like
23 the Administration for Children and Families to allow Texas to
24 increase the percent of pre-K match certifications from 30% to
25 50%. This would increase the state's pre-K match from about

1 39.2 million to about 54.4 million or an increase of roughly
2 15.3. It would allow the state to certify state funds that are
3 already being expended to support pre-K services, providing the
4 state with some much-needed flexibility in how we certify state
5 matching expenditures during Covid. This waiver is requested
6 for both fiscal years 20 and 21, and I'd be happy to answer any
7 questions.

8 CHAIRMAN DANIEL: Comments or questions?

9 JULIAN ALVAREZ III: No, Chairman.

10 AARON DEMERSON: None her.

11 CHAIRMAN DANIEL: Do we have a motion?

12 JULIAN ALVAREZ III: Chairman, I move that
13 we request a federal waiver from the Administration of Children
14 and Families of regulatory provisions in 45CFR, Section 98.53H3
15 to allow Texas to certify pre-kindergarten expenditures up to
16 50% of state expenditures rather than the 30% in federal fiscal
17 years 2020 and 2021 as discussed by staff.

18 AARON DEMERSON: I second that.

19 CHAIRMAN DANIEL: It's been moved and
20 seconded. We're unanimous.

21 REAGAN MILLER: Thank you.

22 ED SERNA: Dale.

23 Good morning. Good morning, Chairman
24 Daniel, Commissioner Alvarez, Commissioner Demerson, Mr. Serna.
25 For the record, I am Dale Robertson, interim director of the

1 Office of Employer Initiatives Division. Before you this
2 morning is the Covid-19 skills funding additional program
3 parameters discussion paper. You may recall back in April on
4 April 14, 2020 commissioners approved a series of funding
5 recommendations related to a variety of funding streams
6 including the Skills Development Fund. As we have moved quickly
7 to implement the new application process as well as begin
8 training, questions around eligible business partners,
9 employers, inclusion of small businesses and prevailing wages
10 have emerged for further consideration. Therefore, we're
11 bringing forward this item for your consideration and approval.
12 Today specifically we will discuss the inclusion of publicly
13 funded organizations, small business owners, sole
14 proprietorships and independent contractors as well as an
15 adjustment to the prevailing wage consideration for newly hired
16 individuals trained under Covid-19's Skills Training Initiative.
17 In the discussion paper we establish there is no explicit
18 prohibition against the participation of publicly funded
19 organizations as businesses in their Skills Development Fund
20 Program. We cite Skills Rule 803 where there are multiple
21 references to training projects customized for private
22 businesses, business consortiums or trade unions. However, we
23 also note that the labor code at Section 303 defines an employer
24 as a person that employs one or more employees. So, given that
25 there is no specific mention of public organizations, the

1 applicable sections of the SDF rule must be waived or suspended
2 for public organizations to be eligible for SDF funds. For the
3 purposes of the SDF Covid-19 grants we're suggesting that the
4 commission may want to expand eligibility to include healthcare
5 employers where a critical need for the medical workforce
6 exists, including publicly funded hospitals which are continuing
7 to experience the significant demand for all types of healthcare
8 workers. Additionally, for small businesses who have been
9 severely impacted by Covid-19 we currently only allow full-time
10 wage-earning employees of small businesses to participate in the
11 SDF training project. However, we have determined based on the
12 demand that we're seeing that there's a need for training of
13 individuals of all levels of small businesses, particularly
14 including owners who do not pay themselves a wage or a salary
15 that are also in need of training to ensure their business's
16 survival. In addition to owners of small businesses, sole
17 proprietors and independent contractors are also currently not
18 eligible for SDF or Skills Development Fund Covid-19 grants.
19 While our rules at Section 803 recognize that sole
20 proprietorships are eligible business partners, it is not clear
21 that the owner of the sole proprietorship is eligible to
22 participate in the SDF training. Therefore, commission may
23 choose to allow owners of sole proprietorships to participate in
24 the SDF training due to their perspective growth opportunities
25 and benefit to the Texas economy. We've also added that a

1 subset of these small businesses and sole proprietors are
2 individuals considered independent contractors. While
3 independent contractors are not cited in the statute or the
4 rule, we think this growing group of individuals are essential
5 members of the workforce and currently they are also eligible
6 for unemployment insurance as a result of the CARES Act. As our
7 economy reopens many of these individuals need to be upskilled
8 which will allow them to continue to thrive as independent
9 contractors or return to the traditional employment with more
10 valuable skills. Finally with regard to the prevailing wage,
11 several of our applicants have raised issues regarding
12 prevailing wage requirements for entry level positions. Some of
13 these positions don't necessarily meet our current by policy
14 defined the prevailing wage as the 25th percentile of all wages
15 in an occupation for a given area. Some of these occupations
16 that are impacted are in rural communities and other parts of
17 the state and they tend to be around the healthcare jobs,
18 certified nursing assistants, licensed vocational nurses and in
19 some cases registered nurses. After reviewing our LMCI data,
20 many of these occupations would be eligible using the 10th
21 percentile wage level and staff are interested in encouraging
22 training for new and needed jobs in these areas. So, our
23 recommendation would be for the prevailing wage, specifically
24 under the Covid-19, that we adjust for those individuals who are
25 trained for new jobs the prevailing wage level be set at the 10th

1 percentile rather than the 25th percentile. So, what we're
2 asking and staff is bringing forward to the commission today,
3 we're seeking approval to allow the executive director to waive
4 the following sections regarding private business involvement in
5 the SDF rule, specifically 803.21 and four, 803.3A, 803.14, A,
6 C, F, 5, F6, F9, 803.15A in the interest of furthering skills
7 training for Texans impacted by Covid-19. In addition, we're
8 requesting that specifically we expand employer eligibility to
9 include publicly funded hospitals where critical workforce need
10 exists during the pandemic and expand eligibility of the SDF
11 Covid-19 training to include small business owners and sole
12 proprietors operating in demand sectors and adjust the
13 prevailing wage at a threshold to allow SDF participants who are
14 trained for new jobs to meet the 10th percentile wage level for
15 prevailing wage determination. With that, commissioners and Mr.
16 Serna, I reserve for any questions you have.

17 CHAIRMAN DANIEL: Comments or questions.

18 JULIAN ALVAREZ III: Chairman, I do have
19 one question and a few comments. The one question I have before
20 I reference my comments is obviously you've had this discussion
21 with Mr. Robertson regarding the prevailing wage. So, Dale, I
22 ask you if we're changing it to the 10th percent percentile to
23 25, can I ask you what the duration of the adjustment's going to
24 be during this, for this decision?

25

1 DALE ROBERTSON: So, we're anticipating
2 that this adjustment would be specifically for the Skills Covid-
3 19 grants, which those grants are for one year specifically
4 designed for Covid-19 applicants. And again, what we're asking
5 is that the prevailing wage be adjusted to the 10th percentile
6 for only the folks trained for new jobs, going into new jobs
7 rather than for everyone. So, we would still keep the 25th
8 percentile for existing workers who are participating in
9 training.

10 JULIAN ALVAREZ III: Thank you for that
11 clarification. I do have some comments. I'd like to take this
12 opportunity to thank Dale and his team for all the hard work in
13 putting this report together. I know we had numerous
14 conversations specifically to address this agenda item. Dale, I
15 would ask in your monthly briefings to my office, which we have
16 greatly appreciated, that we would like a report on these Covid-
17 19 skills grants, a monthly or as we meet with you just an
18 update on these grants. As I was reading the report I was
19 amazed to see that over 141,000 sole proprietors in Texas in
20 various industry sectors. That's amazing. I think that it's
21 important that we focus on our small businesses and sole
22 proprietors and would ask my fellow commissions for their
23 support specifically on this.

24 AARON DEMERSON: Again, Dale thank you guys
25 for the report. The work that you're doing here I think moves

1 us in a good direction in my opinion. Down the line I'd like us
2 to look at the Skills Development Fund Program and this
3 prevailing wage impact and also the Skills Small Business
4 Program if we're doing something special for these individuals
5 I'd like us to look at those programs as well. Those 1099
6 independent contractors, I don't think they qualify for the
7 Skills for Small Business Program if I'm not mistaken. But
8 that's something that we can look towards. If it's good for
9 this group it may be good for the overall program down the line
10 as well, so that's further discussion. But what's brought
11 before us today is something that seems to be needed and I'm in
12 favor of that.

13 CHAIRMAN DANIEL: So, of the \$10 million we
14 set aside on April 14th, how much of that has been allocated at
15 this point?

16 DALE ROBERTSON: Chairman, we have
17 allocated \$8.1 million of those funds, actually \$8.3 million.

18 CHAIRMAN DANIEL: Say that again.

19 DALE ROBERTSON: \$8.3 million have been
20 obligated.

21 CHAIRMAN DANIEL: So, my point of
22 discomfort here is that we're making some probably very worthy
23 kind of policy changes for the last little bit of what's going
24 to be \$1.7 million pretty late in the game. What's the backlog
25 of applications that are waiting on that \$1.7 million?

1 DALE ROBERTSON: We just have a couple
2 more. This is 42 different grants across the state. And that
3 includes nine workforce development boards who have applied for
4 funding so far. And the way it works is that areas are
5 voluntarily coming in and requesting funding. We have not
6 allocated specifically any areas funding. What we're working to
7 do is to make sure every area of the state is covered with this
8 funding.

9 CHAIRMAN DANIEL: So, have we pushed funds
10 up--You confused me with that last one.

11 DALE ROBERTSON: Okay.

12 CHAIRMAN DANIEL: Have we pushed funds out
13 the door or we're waiting to do it all at one time?

14 DALE ROBERTSON: So, we have pushed funds.
15 The \$8.3 million have been approved and contracted to the 42
16 applicants so far. And those applicants are focusing on
17 projected trainings of 5,136 so far.

18 CHAIRMAN DANIEL: On the prevailing wage
19 issue, is that a rule issue or is that an internal policy issue?

20 DALE ROBERTSON: So, the prevailing wage
21 statute in terms of a requirement that folks who are
22 participating in training and are placed at the prevailing wage,
23 what the policy decision is how we define the prevailing wage.
24 So, traditionally since inception as I can recall, the
25 prevailing wage has been set at the 25th percentile.

1 CHAIRMAN DANIEL: Okay. Well, I'll tell
2 you. I don't disagree with any of the concepts that are laid
3 out here. My objection would rest with it seems pretty late in
4 the game to make a new set of guidelines when I think there's
5 probably still demand under the existing rules for the \$1.7
6 million. I hate to create a new opportunity for folks only to
7 tell them there's no money to fund your opportunity despite us
8 taking this action. And so, I'm a little bit concerned about
9 that. Have you given much thought to how we would manage that
10 situation?

11 DALE ROBERTSON: Yes, sir. So, I'd like
12 that share that the request that we've had, we've had to expand
13 the eligible population has come from some of the grantees that
14 have existing [unintelligible]. In their communities they have
15 been approached by small businesses that need training, some of
16 them wanting to develop additional, like e-commerce for
17 instance, capability and do the business in a much different
18 way. And that calls for all levels. And then in certain
19 communities, again because of the healthcare impact, we're also
20 getting requests. So, we think that what I'm hearing, the
21 existing funding that is already allocated would be used for
22 those communities that have that need in them. I will point out
23 that although we have a projected training number of 5,000,
24 actual to date of about 848 or so. So, that number's growing,
25 but what we're seeing is that our grantees are reaching out to

1 populations to encourage them to participate in the training.
2 So, in my mind and from what we're hearing the existing or even
3 if we obligate the entire \$10 million or when we obligate the
4 entire \$10 million, we would be able to serve this population.

5 CHAIRMAN DANIEL: So, if I'm hearing you
6 right, then we're going to do a reach back to applications that
7 have already been received and apply these rules to applications
8 that have already been approved and contracted.

9 DALE ROBERTSON: Correct. So, what
10 happened is the applications that have come they just requested
11 funding. And what they're doing is the way the process has been
12 set up is that as the grantees identify business partners who
13 need training, they're submitting those for approval. And as
14 they identify individuals who need training they're doing the
15 same thing. So, the process is rolling out so they've got the
16 funding and now they're coming in and requesting that their
17 approval for specific training for companies that they're
18 outreaching to or reaching in to them and also for individuals
19 who have been identified as being laid off and don't plan on
20 going back to or don't have a prospect of going back to their
21 former employer.

22 CHAIRMAN DANIEL: There's no statutory
23 conflict here. This is all purely a regulatory exercise is it?

24 DALE ROBERTSON: Yes, sir.

25

1 CHAIRMAN DANIEL: Well, our goal was always
2 to train as many people as we could during this situation where
3 we find so many people on unemployment. And I think measures
4 that we can take to ensure that we get the maximum efficiency
5 for the dollars that we can expend. Are there other comments or
6 questions?

7 JULIAN ALVAREZ III: Chairman, I'd just
8 like to add, again, I see the value of the offices participating
9 in discussion so that we would have the answers, Dale. So, I
10 appreciate when you and your staff brief us. Again, I ask that
11 you continue to provide us with Covid-19 skills grant updates.
12 Again, it was astonishing when reading this concept paper that
13 141,000, as I said, sole proprietors are certainly out there in
14 various industry sectors needing training. And again, my focus
15 has always been on those small businesses and sole proprietors.
16 That's where I think our focus is. Even on June 16th I made
17 reference to the number of folks in the top LMCI data that was
18 provided to us on those industry clusters of those individuals
19 that needed our assistance. This is a huge number, and the
20 Chairman brings up valid points on the money that we are going
21 to be using. I just want to keep that in consideration for us
22 to focus on those, again, small businesses in rural communities
23 or around Texas and of course on small proprietors.

24 CHAIRMAN DANIEL: Commissioner Alvarez, I
25 do think you make a very valid point here. I have to disclose I

1 was opposed to this action item based on all the information
2 that I just shared, but I'm kind of turning in place here,
3 because I think I see an opportunity for us to test some things
4 out in a very specific environment that requires us to move
5 fast. And I think in hearing your words and I'm going to
6 combine those with Commissioner Demerson's words on let's look
7 at this as an opportunity to make additional changes to the
8 Skills Development Program permanently or at least as permanent
9 as changes are around here to create a program that better
10 serves Texans. And so, I find myself sort of overriding my own
11 objections and understanding that this is a great test case for
12 us to help new populations of folks that we may not have
13 otherwise reached through the Skills Development Program. But
14 we didn't come here to listen to me opine. Are there any
15 motions or further comments or questions?

16 AARON DEMERSON: One more comment, Mr.
17 Chairman. You're appropriate. Late in the game, you mentioned
18 that, that it's coming to us late in the game. We have \$1.7
19 left, but to that your point, Commissioner Alvarez, doing
20 something down the line for the overall benefit of the program
21 that benefits employees and employers is a good thing. And I
22 think we're on to something. The prevailing wage issue is the
23 25%. Those are discussions that need to take place, and what we
24 could do from the dais will do what the staff can do from an
25 operational standpoint, because I wrote that word down as well.

1 Is this something we need to be doing or something that can
2 happen otherwise. I think it moves us in the right direction,
3 so I'm in agreement with all the comments that have been made.

4 JULIAN ALVAREZ III: Well, I'm just happy
5 that Dale did clarify that it was for the duration of the Covid-
6 19 grants, the adjustment on the prevailing wage. Obviously, if
7 it hadn't been it would've been something that I would've
8 probably objected to, but thank you for the clarification.

9 CHAIRMAN DANIEL: Well, and to that point,
10 I think that makes a great test case for us. And you know,
11 honestly, with consideration of rules, necessary rules changes
12 to our Skills Development Fund rules, this is a very right time
13 for this conversation. Additional questions or comments?

14 JULIAN ALVAREZ III: Chairman, I appreciate
15 the fact that you have allowed us to express our concerns
16 regarding Agenda Item 17A, a very important item considering how
17 much money we have left and the number of folks that we're
18 serving. Dale, again, thank you and your team. I'd also like
19 to thank my commissioners for supporting me on the small
20 businesses and the sole proprietors that we'd be asking that we
21 reach out to and train. With that, I move that we allow
22 executive director to waive the following sections regarding
23 private business involvement in the SDF rule, 803.2, 1 and 4,
24 803.3A, 803.14A, C, F5, F6 and F9, and 803.15A. In the interest
25 of furthering skills training for Texans impacted by the Covid-

1 19, I further move that we approve the following flexibilities
2 for the SDF Covid-19 grants, expand employer eligibility to
3 include publicly funded hospitals where a critical workforce
4 need exists during the pandemic, expand eligibility for the SDF
5 Covid-19 training to include a focus on small businesses, small
6 business owners and sole proprietors in demand sectors and
7 adjust the prevailing wage threshold to allow SDF participants
8 who are trained for new jobs to meet the 10% wage level for
9 prevailing wage determination.

10 AARON DEMERSON: I second that motion with
11 the 10th percentile wages for prevailing wage determination.

12 JULIAN ALVAREZ III: Did I tell you it was
13 noted? Okay.

14 CHAIRMAN DANIEL: It's been moved and
15 seconded. We're unanimous. Thank you.

16 JULIAN ALVAREZ III: Thank you, Chairman.

17 DALE ROBERTSON: Thank you, commissioners.

18 JULIAN ALVAREZ III: Chairman, if I may
19 just take this opportunity for, again, allowing us for
20 clarification on this important agenda item and for allowing the
21 commissioners to express their concerns. Thank you.

22 CHAIRMAN DANIEL: Well, Commissioner, thank
23 you very much for your comments. I do appreciate our ability to
24 have discussions about these issues. Certainly we all come at
25 this from a different direction with different experiences and

1 different things that we've done, and I think it makes TWC all
2 the stronger when the three of us can have such a professional
3 and well thought out debate, so thank you very much. I think
4 this moves us to Agenda Item 18, discussion, consideration and
5 possible action regarding approval of local Workforce
6 Development Board nominees. So, Shunta, check your mute button
7 for me.

8 SHUNTA WILLIAMS: Can you hear me?

9 CHAIRMAN DANIEL: I can now.

10 SHUNTA WILLIAMS: Okay, perfect. So, good
11 morning, Chairman Daniel, Commissioner Alvarez, Commissioner
12 Demerson and Mr. Serna. For the record I'm Shunta Williams with
13 the Workforce Development Division. And before you for
14 consideration we have Workforce Board nominees for two areas
15 today, Workforce Solutions Northeast and Panhandle. That
16 concludes my request and I'm here to answer any questions you
17 may have.

18 CHAIRMAN DANIEL: Comments or questions?

19 JULIAN ALVAREZ III: Ms. Williams, it's
20 nice to see you again even if it's this way.

21 SHUNTA WILLIAMS: Nice to see you.

22 JULIAN ALVAREZ III: I also appreciate the
23 fact that you allowed us to bring one of the nominees back to
24 today's approval.

25 SHUNTA WILLIAMS: Yes.

1 JULIAN ALVAREZ III: I don't have any
2 further questions on that.

3 AARON DEMERSON: No questions or comments.
4 Nice to see you, Shunta. It's really nice.

5 CHAIRMAN DANIEL: Agreed. Is there a
6 motion?

7 JULIAN ALVAREZ III: Yes, sir. I move that
8 we approve to approve the board nominees for the panhandle and
9 northeast Texas.

10 AARON DEMERSON: Second the motion.

11 CHAIRMAN DANIEL: It's been moved and
12 seconded. We're unanimous. Tom's coming forward, because he
13 has a legislative report.

14 AARON DEMERSON: Let's see if we get
15 excited about seeing Tom.

16 TOM MCCARTY: I have a lot of questions.
17 Let me get my water. Okay. Good morning, Chairman Daniel,
18 Commissioner Alvarez, Commissioner Demerson, Mr. Serna. For the
19 record, Tom McCarty, External Relations. Today staff will be
20 monitoring a congressional hearing. It'll be the U.S. House
21 Ways and Means Subcommittee on Worker and Family Support.
22 They'll be holding a hearing at 2:00 p.m. today titled the
23 Childcare Crisis and Coronavirus Pandemic. We'll monitor this,
24 report it out to you all. We're also monitoring for any
25 additional Covid-19-related legislation and maybe implement it

1 by congress as well. We'll update you if we see those. That
2 concludes my remarks and I'm available to any questions.

3 CHAIRMAN DANIEL: Questions?

4 JULIAN ALVAREZ III: No.

5 AARON DEMERSON: I have none.

6 TOM MCCARTY: Okay, thank you.

7 CHAIRMAN DANIEL: Thank you very much.

8 ED SERNA: Just one quick update from the
9 executive director. We are working on a response to Chairman
10 Martinez Fisher. He had sent me a letter that expressed his
11 concern about the reinstatement of work cert. Of course, I've
12 met with he and a couple other members of the legislature, a
13 couple of different times on a few different occasions, but I
14 want to make sure that we address the concerns that the chairman
15 has brought up. So, I'll be one, reaching out to him, and two,
16 will be formally sending a written response. In addition, he
17 submitted an open records request, or not an open records
18 request but a legislative request and we're compiling all that
19 information also.

20 CHAIRMAN DANIEL: Certainly. Any other
21 order of business coming before the commission.

22 JULIAN ALVAREZ III: Chairman, I just want
23 to take this opportunity to thank Ed for continuing to brief the
24 offices and the great work that you're doing in working with
25 your directors. Directors have certainly demonstrated their

1 leadership. I know Clay's here and some of the others that
2 represent general counsel and the folks from the UI Division, so
3 we appreciate all the work that you do. We may not always
4 express that, but we certainly appreciate it. Clay, thanks for
5 all the work that you do. Please share that with your staff and
6 all the others. And Ed, I ask that you share with your
7 directors that we appreciate everything that they do for us.
8 Thank you.

9 AARON DEMERSON: I support those comments
10 wholeheartedly.

11 CHAIRMAN DANIEL: Yeah, likewise. If
12 there's no other item of business, do we have a motion to
13 adjourn?

14 JULIAN ALVAREZ III: Chairman, I move that
15 we adjourn.

16 AARON DEMERSON: I routinely second that
17 motion.

18 CHAIRMAN DANIEL: And argue none. We're
19 adjourned.

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