

MEETING OF THE TEXAS WORKFORCE COMMISSION

DATE

APRIL 18, 2022

Monday, April 18, 2022

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2 CHAIRMAN DANIEL: This meeting is called to 3 order. Mr. Trobman, has anyone signed up for public comment? 4 MR. TROBMAN: Good afternoon, commissioners. 5 Les Trobman, general counsel. We have one registrant for public 6 comment. We have Ms. Melissa Laurel. Ms. Laurel, if you could 7 unmute yourself and proceed. Ms. Laurel? That's what we got. 8 CHAIRMAN DANIEL: Thank you very much, Mr. 9 Trobman. Good afternoon, Ms. Gonzales. 10 CHAIRMAN DANIEL: Motion passes with the 11 exceptions noted. This brings us to the end of Agenda Items 3 12 through 7. We'll take a short break. 13 MS. GONZALES: Thank you. 14 CHAIRMAN DANIEL: This is Agenda Item 8, PC 15 to amend Chapter 800, General Admin Implement SB1113, TANF, 16 state tax refund. 17 SHUNTA WILLIAMS: Good afternoon, Chairman 18 Daniel, Commissioner Alvarez, Commissioner Demerson, and Mr. 19 Serna. For the record, Shunta Williams with the Workforce 20 Development Division. Commissioners, before you today for 21

consideration for approval is a policy concept relating to a potential rule amendment to Chapter 800, General Administration. The purpose for the proposed rules is to implement Senate Bill 1113 from the 75th Texas Legislature, Regular Session, which amended Texas Labor Code Chapter 300 by adding a Subchapter H,

tax refund for wages paid to employee receiving financial assistance. SB1113 transferred the application eligibility and certification procedures to the Texas Workforce Commission allowing the adoption of rules as necessary to carry out its powers and duties under this subchapter. The application and eligibility certification procedures have been operated by TWC staff since 1997 but rules to operate the program have remained under the Comptroller of Public Accounts rules under 34 Texas Administrative Code 3.4. The comptroller's office is currently reviewing possible amendments to 34 TAC that would eliminate reference to eligibility determination in its rules. Staff recommends amending Chapter 800 to establish TWC rules to clarify the requirements and eligibility determination effectively implementing and interpreting SB1113. This concludes my presentation, and I'm available to answer any questions that vou have.

CHAIRMAN DANIEL: Comments or questions?

COMMISSIONER ALVAREZ: None here, chairman.

COMMISSIONER DEMERSON: None.

CHAIRMAN DANIEL: Is there a motion.

COMMISSIONER ALVAREZ: Chairman, I move that

we approve the policy concept for establishing rules under Chapter 800, Subchapter M, and post to the website for informal comment as discussed by staff.

COMMISSIONER DEMERSON: I second.

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CHAIRMAN DANIEL: It's been moved and seconded and we're unanimous. Thank you. This is Agenda Item 9, policy concept to amend Chapter 815, UI to implement SB695.

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JASON STALINSKY: Good afternoon, Chairman Daniel, Commissioner Alvarez, Commissioner Demerson, and Mr. Serna. For the record, I'm Jason Stalinsky, director of the Office of Investigations and Prosecutions for the Division of Fraud Deterrence and Compliance Monitoring. Before you today is a policy concept to amend the Chapter 815 unemployment rules. In the 87th Regular Legislative Session, the legislature passed and the Governor signed Senate Bill 695. SB695 was a TWC initiative which amended Texas Labor Code Section 213.032(a) pertaining to how notice of assessments are served. With the passage of SB695, TWC can now attempt service by personal delivery or certified mail and then by substitute service if the primary attempt is unsuccessful. The proposed rules addressed by this policy concept are necessary to implement and interpret SB695. Administrative rules would provide staff with guidance for issuing notices of assessment as well as inform those who may receive them on the ways in which they may be served. To effectuate this staff is recommending proceeding with rules that address each new subparagraph of SB695 as well as the legislation in general. Areas addressed would include who may attempt service, which addresses can be used for service, definitions and limitations, how to contest service, multiple

1 service attempts, and potential methods of effectuating 2 substitute service. To accomplish this by rules staff recommends 3 amending our Chapter 815 rules to add a new subchapter H, 4 Collection Action. Today staff seeks approval to move forward 5 with developing the proposed rules as outlined in this policy 6 concept. I am available for any questions you may have. 7 CHAIRMAN DANIEL: Comments or questions? 8 COMMISSIONER ALVAREZ: None here, chairman. 9 COMMISSIONER DEMERSON: None. 10 CHAIRMAN DANIEL: Is there a motion? 11 COMMISSIONER ALVAREZ: Chairman, I move that 12 we approve the policy concept for the amendments to Chapter 815 13 to add Chapter H, Collection Activities, as discussed by staff. 14 COMMISSIONER DEMERSON: Second. CHAIRMAN DANIEL: It's been moved and 15 16 seconded, we're unanimous. This is Agenda Item 10, policy 17 concept to amend Chapters 850 and 856, VR, and post informal 18 public comments. 19 CHERYL FULLER: Good afternoon, Chairman 20 Daniel, Commissioner Alvarez, Commissioner Demerson, and Mr. 21 Serna. For the record, Cheryl Fuller, Vocational Rehabilitation 22 Division. Commissioners, before you today for consideration is a 23 policy concept to amend Chapter 850, Vocational Rehabilitation 24 Services Administrative Rules and Procedures, and Chapter 856,

Vocational Rehabilitation Services. The purpose of this proposed

rulemaking is to amend Chapter 850 to adopt rules required by Texas Labor Code Section 352.104, and to amend both Chapters 850 and 856 to align to federal regulations more clearly and to improve overall clarity and consistency in these chapters. Most of the proposed amendments are a result of stakeholder comments received during our most recent four-year rule review. The stakeholder input was very helpful in identifying opportunities to improve the clarity and consistency of our rules for our partners, stakeholders, and customers who may refer to them to understand how our program operates. Examples of the proposed amendments to both Chapter 850 and 856 include adding definitions, updating acronyms, removing duplicative language, and assuring that the rule language more specifically and fully aligns with federal regulations. In addition the Rehabilitation Services Administration recently provided policy clarification on post-employment services so the proposed amendments will align with that guidance. Finally, we propose to incorporate into Chapter 850, Section 352.104 in the Texas Labor Code regarding training and supervision of counselors. Through our internal procedures we are currently in compliance with the statutory requirements regarding monitoring and oversight of VR counselor performance. We propose a new section under Chapter 850, Subchapter A, to implement the rule adoption requirement in the Labor Code. Staff recommends amending 40 TAC Chapter 850 to adopt rules required by the Texas Labor Code and to amend both

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1 Chapter 850 and 856 to align with federal regulations and 2 clarify the rule language. This concludes my presentation, and 3 I'm available to answer any questions you may have. 4 CHAIRMAN DANIEL: Comments or questions? 5 COMMISSIONER ALVAREZ: None here, chairman. COMMISSIONER DEMERSON: None. 6 7 CHAIRMAN DANIEL: Is there a motion? 8 COMMISSIONER ALVAREZ: Chairman, I move that 9 we approve the policy concept for amending Chapters 850 and 856 10 as discussed by staff. 11 COMMISSIONER DEMERSON: I second. 12 CHAIRMAN DANIEL: It's been moved and 13 seconded, and we're unanimous. Thank you. This is Agenda Item 11 14 to amend Chapter 849, TAA, and publish in the Texas Register for 15 public comment. 16 DAWN CRONIN: Good afternoon, Chairman, 17 Commissioner Alvarez, Commissioner Demerson, Mr. Serna. For the 18 record, my name is Dawn Cronin and I'm with the Workforce 19 Development Division. On January 25th of this year the commission 20 approved a policy concept on potential amendments to the TWC 21 rule for Chapter 849, Employment and Training Services for 22 Dislocated Workers Eligible for Trade Benefits. The policy 23 concept was posted online for a three-week comment period. No 24 comments were received. Today for your consideration is the

proposed rule for Chapter 849 which will align the rules with

the Department of Labor Trade Adjustment Assistance program
their final rule specifically adding the requirement to coenroll trade-affected workers in WIOA's dislocated worker
program, updating citations from WIA to WIOA within the chapter,
revising and updating program definitions, and making other
updates needed to reflect the regulatory program changes.
Additionally, the proposed rule serves as the four-year rule
review of Chapter 849 as required by Texas Government Code,
Chapter 2001.039. Today staff recommends approval to post the
proposed amendments to Chapter 40, Texas Administrative Code,
Chapter 849 for publication in the Texas Register for a 30-day
public comment period. I'm available to answer any questions you
might have.

CHAIRMAN DANIEL: Comments or questions?

COMMISSIONER ALVAREZ: None here, chairman.

COMMISSIONER DEMERSON: None.

CHAIRMAN DANIEL: Is there a motion?

COMMISSIONER ALVAREZ: Chairman, I move that

we approve the proposed rule amendments to 40 TAC Chapter 849 for publication in the Texas Register and public comment as recommended by staff.

COMMISSIONER DEMERSON: Second.

CHAIRMAN DANIEL: It's been moved and seconded, and we're unanimous. This is Agenda Item 12, DPA for the reallocation of AEL funds.

MAHALIA BALDINI: Good afternoon, Chair Daniel, Commissioner Alvarez, Commissioner Demerson, and Mr. Serna. For the record, Mahalia Baldini with the Workforce Development Division. In February of 2022, TWC received written request for voluntary deobligations of Program Year 21-22, AEL funds from two grant recipients, Denton Independent School District and Amarillo College. Texas Administrative Code rule 800.80 outlines the criteria the commission must consider when reallocating any deobligated funds. The rule provides that if no grant recipient in the same workforce area from which the funds are being deobligated from meets the criteria, the commission may consider an AEL grant recipient outside of the workforce area. Upon review there are no grant recipients in either the North Central workforce area nor the Panhandle workforce area that currently meets the criteria outlined in 800.80. So at this time the commission may approve a plan to reallocate funds to a grant recipient outside of those workforce areas to receive this funding. At this time staff seeks direction on the following as laid out in your notebook materials. Accepting the plan to reallocate \$418,150 of deobligated funds to AEL grant recipients Brazos Valley Council of Governments, and Victoria College as shown in table one, and adjusting the Program Year 21-22 performance targets for AEL grant recipients Amarillo College, Denton ISD, Brazos Valley Council of Governments, and Victoria

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1 College as shown in tables two and three. This concludes my 2 remarks and I'm happy to answer any questions you may have. 3 CHAIRMAN DANIEL: Any comments or questions? 4 COMMISSIONER ALVAREZ: None here, chairman. 5 COMMISSIONER DEMERSON: None. CHAIRMAN DANIEL: Is there a motion? 6 7 COMMISSIONER ALVAREZ: Chairman, I move that 8 we accept the plan to reallocate deobligated funds of \$156,820 9 to Brazos Valley Council of Governments, and \$261,330 to 10 Victoria College, and adjust Program Year 2021-2022 performance 11 targets for Amarillo College, Denton ISD, Brazos Valley Council 12 of Governments, and Victoria College as discussed by staff. 13 COMMISSIONER DEMERSON: Second. 14 CHAIRMAN DANIEL: It's been moved and 15 seconded, and we're unanimous. This is Agenda Item 13 regarding 16 Senior Community Service Employment Program Durational Limit 17 Policy. 18 SANDRA WILLIAMS: Good afternoon, Chairman 19 Daniel, Commissioner Alvarez, Commissioner Demerson, Mr. Serna. 20 For the record, Sandra Williams, Workforce Development Division. 21 The Senior Community Service Employment Program or SCSEP is a 22 community service and work-based job training program for older 23 Americans administered by the United States Department of Labor, 24 DOL. SCSEP participants gain work experience in a variety of 25 community service activities at nonprofit and public facilities.

Participants work an average of 20 hours per week and are paid the highest of federal, state, or local minimum wage. This training serves as a bridge to unsubsidized employment opportunities for participants. Texas Workforce Commission is one of the current Department of Labor Senior Community Services Employment grantees. TWC subgrants the operation of this program to the highest scoring applicant during a competitive process. In December 2020, TWC awarded to a new subgrantee to provide these services in 84 counties in Texas. DOL selects other national grantees in Texas for the remaining counties through a competitive process. As allowed under a waiver approved by DOL on October 17, 2011, TWC implemented a durational limit policy effective February 6, 2012, that extends an individual's participation in SCSEP past the 48th month if certain eligibility is met. A durational limit waiver allows for temporary extension of 12 months per waiver if the participant meets at least one of the following statutory waiver factors: is 75 years of age or older, meets Social Security age requirements but does not receive Social Security benefits or lives in an area of persistent unemployment and has severely limited employment prospects. While the waiver allows participants to continue in paid work experience for an extended period, this in some cases may benefit the individual. Employment is the primary goal and other services are available to assist participants in accessing more permanent employment. TWC has operated under a durational

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limit policy since February 6, 2012. A durational limit policy is not required by the Department of Labor. TWC target to enroll 458 participants and currently has 374 enrolled. There have been 16 durational limit extensions granted so far in Program Year 2021. As of January 2022, there are approximately 15 participants that may be eligible for a durational limit extension. Although the full durational limit placed on the program is 48 months, the program design is that participants enrolled will average 27 months in the program. Durational waivers allowing individuals to remain in the program past the 48-month limit impact the program design by increasing the average time that participants are in the program. The current grantee has a plan in place to ensure that all participants enrolled do receive assistance in transitioning to unsubsidized employment. The proposed change is to eliminate the durational limit policy requiring all participants to obtain training, support services, and unsubsidized training within the maximum 48-month individual participation duration. This will encourage proactive Individual Employment Plan, IEP reviews, and promote diligence in training, job searches, and job placement. Participants who are unable to obtain employment within 48 months will be referred to local area service providers for assistance after the program exit. If approved, adequate notice and other services will be provided to allow for a streamlined transition. Staff recommends eliminating the SCSEP durational

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limit policy. This concludes my presentation and $I^{\prime}m$ available for any questions.

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CHAIRMAN DANIEL: Comments or questions? COMMISSIONER ALVAREZ: Chairman, I have a comment. First of all, I'd like to thank staff for the work they put into this discussion paper and for meeting with my staff about this important item. I've met with staff multiple times concerning this particular agenda item. While I understand the concern that continuing a 12-month duration limit waiver will impact the program by increasing the average time of participation, currently with the waiver allowed we have an average participation time of 22.5 months, below the intended design of 27 months. Individuals seeking the waiver are limited to those over 75 years of age, unable to draw Social Security, or live in areas with persistent unemployment and with limited employment prospects. Although the Texas economy is recovering rapidly, we are in a period of uncertainty due to high inflation. I am not certain that this time is the best time to reduce the ability for qualified individuals to work and provide income for those households. If the interest is in opening available slots in the program and reducing the time of participation, I would prefer for it to be because we have been successful in finding participants outside employment. If we need be, we should reach out to participants and provide assistance earlier to ensure every opportunity to bridge the

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   unsubsidized employment. We should strive to achieve our goal
   through sustained success and not by placing greater limits on
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   participation. At this time, I would not be in favor of
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   eliminating the 12-month waiver for participants in this
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   program.
                         CHAIRMAN DANIEL: Comments or questions?
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                         COMMISSIONER DEMERSON: None here.
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                         CHAIRMAN DANIEL: Is there a motion?
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                         COMMISSIONER ALVAREZ: Chairman, at this
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   time I would not like to make a motion on this agenda item.
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                         CHAIRMAN DANIEL: I move we approve the
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   elimination of the Senior Community Services Employment Program
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   durational limit policy as recommended today by staff.
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                         COMMISSIONER DEMERSON: I second.
                         CHAIRMAN DANIEL: It's been moved and
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   seconded. Commissioner Alvarez, how would you vote?
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                         COMMISSIONER ALVAREZ: I'm not voting in
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   favor of it for the record.
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                         CHAIRMAN DANIEL: Commissioner Demerson?
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                         COMMISSIONER DEMERSON: In favor.
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                         CHAIRMAN DANIEL: I vote in favor. Motion
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   carries. This is Agenda Item 14, Fiscal Year 23, Program Year
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   22, AEL program funding planning estimates.
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                         CHRIS NELSON: Good afternoon, Chairman,
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   Commissioner Alvarez, Commissioner Demerson, and Mr. Serna. For
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1 the record, Chris Nelson, chief financial officer. This 2 afternoon you have before you the Fiscal Year 23, Program Year 3 22 adult education and family literacy planning estimates for 4 the contract starting July 1, 2022. These estimates are based on 5 recently received Department of Education planning estimates and 6 the available grant balances from prior years. Currently TWC is 7 projecting an AEL allocation of 82,249,495 dollars or 8 approximately a 3.7 percent increase over the FY22 allocation. 9 From these estimates staff will begin developing the FY23 10 allocations at the provider level and look to bring that before 11 you over the coming weeks. That concludes my remarks and without 12 any objection I will post these planning estimates to our 13 website, and I'd be happy to answer any questions. 14 CHAIRMAN DANIEL: Comments or questions? 15 COMMISSIONER ALVAREZ: I'm just glad Chris 16 didn't bring up any money because the last time I gave him too 17 much. 18 CHRIS NELSON: That was 82 million, 249-19 COMMISSIONER ALVAREZ: I have no comments, 20 chairman. 21 COMMISSIONER DEMERSON: No comments here. 22 CHAIRMAN DANIEL: We'll leave it right 23 there. We don't need a motion. This was informational only. This

is Agenda Item 15, TWC strategic plan. We don't have anything

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under Agenda Item 15. Well, look at that. Agenda Item 16 though we do. This is Board Pledges and Child Care Matching Funds.

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SANDRA WILLIAMS: Good afternoon, Chair Daniel, Commissioner Alvarez, Commissioner Demerson, Mr. Serna. For the record, Sandra Williams, Workforce Development Division. The Texas Workforce Commission allocates federal funding for child care services from the Child Care and Development Fund to local workforce development areas for a portion of the CCDF funding. Local Workforce Development Boards are required to secure and submit local matching funds to TWC in accordance with federal regulations and TWC Chapter 809, Child Care Service rules, and TWC Chapter 800, General Administration rules. Boards submit annual local match pledges from private and public entities to secure federal child care funds pursuant to Section 809.17, and to maximize resources for child care needs in the community. Supporting documents include two Board Contract Year 2022 match agreements from one board which is Capital Area. Boards have secured 107.58 percent of the statewide local child care match for BCY22 with all boards either meeting or exceeding their local match target. Staff recommends child care pledges for donations, transfers, and certifications for expenses for BCY in the amount of 509,674 be accepted. I'm happy to answer any questions.

CHAIRMAN DANIEL: Comments or questions?

COMMISSIONER ALVAREZ: None here, chairman.

COMMISSIONER DEMERSON: None.

CHAIRMAN DANIEL: Is there a motion?

COMMISSIONER ALVAREZ: Chairman, I move that

we accept pledges for Board Contract Year 2022, child care matching funds, in the amount of \$509,674.

COMMISSIONER DEMERSON: Second.

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

SANDRA WILLIAMS: Thank you, sir.

CHAIRMAN DANIEL: Thank you. This is Agenda

Item 18, tranches 2 and 8 of the COVID stimulus-funded child

care initiatives.

ALLISON WILSON: Good afternoon, Chairman, Commissioners, Mr. Serna. Allison Wilson with the Child Care and Early Learning Division for the record. Commissioners, before you today for your consideration is a discussion paper regarding the initiative to expand child care registered apprenticeships which was approved by the commission on June 29, 2021, in the second tranche of child care stimulus funds. On October 29, 2021, TWC issued a request for applications with an application deadline of December 23rd. TWC anticipates roughly half of the funds will remain after grants are awarded under that issued RFA. To fully utilize the remaining funds and to support the expansion of child care wraps, staff recommends making revisions to the parameters of the approved funding and reissuing an RFA.

Revisions would allow for new activities to support project launch and implementation costs as described in the paper. That concludes my remarks on this issue and I'm happy to answer any questions you may have.

COMMISSIONER ALVAREZ: None here, chairman.

COMMISSIONER DEMERSON: Allison, stakeholder agreement or input. Did you guys receive any stakeholder input?

ALLISON WILSON: Not like specific to this

RFA. We did in reviewing the applications determine that there were some areas for improvement in the RFA, and of course they're very excited about this initiative so the opportunity to fully expend the funds will be welcome.

COMMISSIONER DEMERSON: Thank you.

CHAIRMAN DANIEL: Comments or questions?

CHAIRMAN DANIEL: All right. Any comments or questions? Hold on to that. We'll vote on that together. You got another one for us?

ALLISON WILSON: Yes, OK, I can go ahead with the second one. Today we are also bringing forward the eighth tranche of child care stimulus-funded initiatives to request your approval of 2.4 million for the Texas Education Agency to support the development of prekindergarten partnership programs. As you're aware these are partnerships in which a pre-K teacher is placed within a child care program, and the children receive pre-K instruction while at the child care

1 program. TEA would like to pilot a new model with Texas A&M 2 serving as a hub funding intermediary. TEA would like to pilot 3 this model to determine if this can help local education 4 agencies reduce their administrative burden as the intermediary 5 will be handling most of the administrative tasks like contract 6 development, drawing down state funds, passing those funds 7 through to the child care program, and with required state 8 reporting on the children that are being served. The long-term 9 goal is for the hub funding intermediary to provide continued 10 assistance with financial aid and reporting logistics for pre-K 11 partnership classrooms, and in doing so to expand and sustain 12 these models across the state. That concludes my remarks. I'm 13 happy to answer any questions on that. 14 CHAIRMAN DANIEL: Any comments or questions? 15 COMMISSIONER ALVAREZ: None here, chairman. 16 COMMISSIONER DEMERSON: None. 17 CHAIRMAN DANIEL: Is there a motion on 18 these? 19 COMMISSIONER ALVAREZ: On the first one, I 20 move that we modify the allowable uses of remaining child care 21 stimulus funding approved for early childhood expansion for 22 inclusion in a reissued RFA as recommended by staff. 23 COMMISSIONER DEMERSON: Second.

CHAIRMAN DANIEL: It's been moved and

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seconded. We're unanimous.

1 COMMISSIONER ALVAREZ: On the second one, 2 chairman, I move that we approve 2.4 million for Texas Education 3 Agency to pilot the hub funding intermediary model in support to 4 develop the new pre-K partnership classrooms as recommended by 5 staff. COMMISSIONER DEMERSON: Second. 6 7 CHAIRMAN DANIEL: It's been moved and seconded. We're unanimous. 8 9 ALLISON WILSON: Thank you. 10 CHAIRMAN DANIEL: Thank you. No legislative 11 proposals to discuss today? No legislative report to discuss 12 today? Is there an executive director's report today? Thank you 13 very much. Is there any other order of business to come before 14 the commission? 15 COMMISSIONER ALVAREZ: Yes, chairman, I have 16 something I'd like to ask Ed if I may do so. 17 CHAIRMAN DANIEL: Please. 18 COMMISSIONER ALVAREZ: A few weeks ago I asked staff to bring forward a discussion paper to explore ideas 19 20 on how to use federal child care pandemic funding to provide 21 additional one-time benefits to child care workers who have been 22 struggling with soaring costs of fuel and groceries. Staff have 23 produced a discussion paper with some ideas and recommendations.

However, I have also been fortunate enough to review a number of

programs developed by our local Workforce Boards to address

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1	these issues. I was impressed by the innovation approaches used
2	by the boards and how their programs were tailored to the local
3	needs of their workers and providers. I am satisfied that the
4	work of our boards effectively addresses the challenges child
5	care workers face and do not believe at this time that a
6	statewide program would improve substantially on the work
7	already underway by our boards. That's it.
8	CHAIRMAN DANIEL: Thank you. Any other order
9	of business?
10	COMMISSIONER DEMERSON: None here.
11	CHAIRMAN DANIEL: Is there a motion to
12	adjourn?
13	COMMISSIONER ALVAREZ: Chairman, I move that
14	we adjourn.
15	COMMISSIONER DEMERSON: Second.
16	CHAIRMAN DANIEL: It's been moved and
17	seconded to adjourn, and we're adjourned.
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